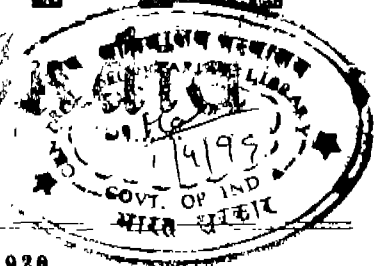




भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
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सं० 48]

नई दिल्ली, शनिवार, नवम्बर 28, 1998/अग्राहायण 7, 1920

No. 48]

NEW DELHI, SATURDAY, NOVEMBER 28, 1998/AGRAHAYANA 7, 1920

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालय (रक्षा मंत्रालय) को छोड़कर) द्वारा जारी किये गये सांविधिक आदेश और प्रज्ञापनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

(पुनर्वास प्रभाग)

नई दिल्ली, 23 अक्टूबर, 1998

MINISTRY OF HOME AFFAIRS

(Rehabilitation Division)

New Delhi, the 23rd October, 1998

का.आ. 2429.—विस्थापित व्यक्ति (प्रतिकर एवं पुनर्वास) अधिनियम, 1954 की धारा 3 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा राष्ट्रीय राजधानी क्षेत्र दिल्ली सरकार के भूमि एवं भवन विभाग, निष्कांत सम्पत्ति सेल में उप सचिव/सहायक बंदोबस्त आयुक्त, श्री वी.पी. सिंह को सहायक बंदोबस्त आयुक्त के रूप में अपने दायित्व के अतिरिक्त उक्त अधिनियम के द्वारा अथवा उसके अधीन सहायक बंदोबस्त आयुक्त को सौंपे गए कार्यों का निष्पादन करने के उद्देश्य से सहायक बंदोबस्त आयुक्त के रूप में नियुक्त करती है।

2. इससे तारीख 31-1-97 की पहले की अधिसूचना संख्या 1(2)/94-बंदोबस्त (क) का अतिक्रमण होता है।

[संख्या 1(2)/94-बंदोबस्त (क)]

सुरजीत सिंह, अवसर सचिव

S.O. 2429.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, the Central Government hereby appoints Shri V. P. Singh, Deputy Secretary/Assistant Settlement Commissioner in the Land and Building Department, Evacuee Property Cell, Government of N.C.T. of Delhi as Assistant Settlement Commissioner, for the purpose of performing, in addition to his own duties, the functions assigned to a Assistant Settlement Commissioner by or under the said Act.

2. This supersedes earlier Notification No. 1 (2)/94-Settlement (A) dated 31-1-1997.

[No. 1(2)/94-Settlement(A)]
SURJIT SINGH, Under Secy

नई दिल्ली, 23 अक्टूबर, 1998

का.आ. 2430.—निष्क्रांत सम्पत्ति प्रबंध अधिनियम, 1950 (1950 का 31) की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भूमि एवं भवन विभाग, निष्क्रांत सम्पत्ति सेल, राष्ट्रीय राजधानी क्षेत्र, दिल्ली में उप सचिव/सहायक बंदोबस्त आयुक्त श्री वी.पी. सिंह को उनके स्वयं के दायित्वों के अतिरिक्त उक्त अधिनियम के द्वारा अथवा उसके अधीन एक अभिरक्षक को सौंपे गए कार्यों का निष्पादन करने के उद्देश्य से दिल्ली में निष्क्रांत सम्पत्तियों के अभिरक्षक के रूप में नियुक्त करती है।

2. इससे तारीख 31-1-97 की पहले की अधिसूचना संख्या 1(2)/94-बंदोबस्त (ख) का अतिक्रमण होता है।

[संख्या 1(2)/94-बंदोबस्त(ख)]
सुरजीत सिंह, अवर सचिव

New Delhi, the 23rd October, 1998

S.O. 2430.—In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (31 of 1950), the Central Government hereby appoints Shri V. P. Singh, Deputy Secretary/Assistant Settlement Commissioner in the Land Building Department, Evacuee Property Cell, N.C.T. of Delhi as the Custodian of Evacuee Properties in Delhi, in addition to his own duties, for the purpose of performing the functions assigned to a Custodian by or under the said Act.

2. This supersedes earlier notification No 1(2)/94-Settlement(B) dated 31-1-1997.

[No. 1(2)/94-Settlement(B)]
SURJIT SINGH, Under Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 11 नवम्बर, 1998

का.आ. 2431.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 संपठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए गुजरात राज्य सरकार के राजस्व विभाग की अधिसूचना सं. जी एच एम/98/15/एस टी पी/1097/1165/पार्ट II/एच.1 दिनांक 17-01-1998 द्वारा प्राप्त गुजरात राज्य सरकार की सहमति से गुजरात राज्य में पंजीकृत मामलों यथा अपराध सं. 202/97-सेक्टर 7, गांधीनगर पुलिस थाना, अपराध सं. 352/97-शाही बाग पुलिस थाना और अपराध सं. 95/97-जामकल्याणपुर थाना में भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 258, 259, 260, 406 एवं 420 संपठित भारतीय दंड संहिता की धारा 34 के अधीन दंडनीय अपराधों तथा उपर्युक्त एक अथवा एक से अधिक अपराधों से

संबंधित अथवा संसक्त प्रयत्न, दुरुप्रेरण और पड़्यंत तथा उसी संव्यवहार के अनुक्रम में किये गये अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य एक अथवा अधिक अपराधों के अन्वेषण के लिये दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तारण सम्पूर्ण गुजरात राज्य पर करती है।

[सं. 228/71/97-एवीडी-II]
हरि सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSION

(Department of Personnel & Training)

New Delhi, the 11th November, 1998

S.O. 2431.—In exercise of the powers conferred by sub-section (1) of section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act. No. 25 of 1946), the Central Government with the consent of the State Government of Gujarat vide Revenue Department Notification No. GHM/98/15/STP/1097/1165/Part II/H.1 dated 17-1-1998, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole State of Gujarat for investigation of offences punishable under sections 258, 259, 260, 406 and 420 of the Indian Penal Code, 1860 (Act No. 45 of 1860) read with section 34 of the Indian Penal Code and attempt, abetment and conspiracy in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts relating to the cases. Crime No. 202/97 of Police Station, Sector 7, Gandhinagar, Crime No. 352/97 of Police Station Shahibaug, District Ahmedabad and Crime No. 95/97 of Police Station Jamkalyanpur, District Jamnagar, Gujrat.

[No. 228/71/97-AVD.II]
HARI SINGH, Under Secy.

नई दिल्ली, 17 नवम्बर, 1998

का.आ. 2432.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, रिट याचिका संख्या 20797 (डब्ल्यू)/97 में पश्चिम बंगाल के कलकत्ता स्थित उच्च न्यायालय के निर्देशों के अनुसार भारतीय दण्ड संहिता की धारा 302/34 के अधीन दंडनीय अपराधों और 16/17 सितम्बर, 1997 की रात में निभता पुलिस जिला उत्तर 24-परगना, पश्चिम बंगाल में पुलिस लॉक अप में शामिल दाम की अप्राकृतिक मृत्यु से संबंधित किसी अन्य अपराध/अपराधों के अन्वेषण के लिए, दिल्ली विशेष पुलिस संगठन के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण पश्चिम बंगाल राज्य पर करती है।

[सं. 228/51/98-ए.वी.डी.-II]
हरि सिंह, अवर सचिव

New Delhi, the 17th November, 1998

S.C. 2432.—In exercise of the powers conferred by sub-section (1) of section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government as per the directions of Hon'ble High Court of West Bengal, Calcutta dated 15-5-1998 in Writ Petition No. 20797(W)/97 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of West Bengal for the investigation of offences punishable under section 302/34 of the Indian Penal Code and any other offence/offences relating to the unnatural death of one Shyamal Das in Police lock-up at Nimta Police Station, District North 24-Parganas, West Bengal, in the night of 15/16th September, 1997.

[No. 228/51/98-AVD. II]
HARI SINGH, Under Secy.

नई दिल्ली, 19 नवम्बर, 1998

का.आ. 2433.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए राजस्थान सरकार के गृह (ग्रुप-5) विभाग के दिनांक 15-11-1998 के आदेश सं. एफ.-14(9) होम-5/98 जयपुर द्वारा प्राप्त राजस्थान राज्य सरकार की सहमति से श्री के.टी. विश्वनाथन नाथर, प्रबन्धक कनक होटल, झालवाड़ रोड़, कोटा की हत्या के संबंध में पुलिस स्टेशन, गुमानपुरा कोटा सिटी, जिला कोटा में भारतीय दंड संहिता 1860 की धारा 302 के अधीन सर्ज एफआईआर नं. 762/98 तथा दंड प्रक्रिया संहिता, 1973 की धारा 174 के अधीन इन्क्वेस्ट नं. 29/98 के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों से संबंधित अथवा संसक्त प्रयत्न, दुष्प्रेरण और षडयंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध/अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण राजस्थान राज्य पर करती है।

[सं. 228/56/98-ए.वी.डी.-II]

आई.एस. चतुर्वेदी, उप सचिव

New Delhi, the 19th November, 1998

S. O. 2433.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Rajasthan vide Home (Group-V) Department's Order F. No. F-14(9) Home-5/98 Jaipur dated 15-11-1998, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Rajasthan for investigation of offence punishable under section 302 of the Indian Penal Code, 1860 of FIR No 762/98 and inquest No. 29/98 under section 174 of Criminal Procedure Code, 1973 of Police Station Gumanpura, Kota

City, District Kota relating to the murder of Sh. K. T. Vishwanathan Nayar, Manager of Kanak Hotel, Jhalawad Road, Kota and attempt abetment and conspiracy in relation to or in connection with the offence mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/56/98-AVD.II]

I. S. CHATURVEDI, Dy. Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 18 नवम्बर, 1998

स्टाम्प

का.आ. 2434.— भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार एतद्वारा भारतीय औद्योगिक विकास बैंक, मुम्बई को मात्र तेरह करोड़ बयालीस लाख सैंतीस हजार और एक सौ पचास रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त बैंक द्वारा जारी किये जाने वाले नीचे वर्णित प्रोमिसरी नोटों के स्वरूप वाले बांडों पर स्टाम्प शुल्क के कारण प्रभाव्य है :—

(क) मात्र एक हजार एक सौ इकसठ करोड़ छप्पन लाख और पचहत्तर हजार रुपये के कुल मूल्य के प्रत्येक पांच हजार रुपये के आई एफ आर 000001 से 2323135 तक की विशिष्ट संख्या वाले आई डी बी आई नियमित आय बांड 98क ;

(ख) मात्र सड़सठ करोड़ और निम्नान्वे लाख रुपये के कुल मूल्य के प्रत्येक पांच हजार रुपये के आई एफ जी 3000001 से 3135980 तक की विशिष्ट संख्या वाले आई डी बी आई बढ़ते व्याज वाले बांड 98क ;

(ग) मात्र एक सौ दो करोड़ सत्ताईस लाख और पचास हजार रुपये के कुल मूल्य के प्रत्येक दस हजार रुपये के आई.एफ.डी. 4000001 से 4102275 तक की विशिष्ट संख्या वाले आई. डी.बी.आई. डीप डिस्काउन्ट बांड 98क ;

(घ) मात्र दस करोड़ तिरपन लाख और नव्वे हजार रुपये के कुल मूल्य के प्रत्येक पांच हजार रुपये के आई.एफ.ई. 5000001 से 5021078 तक की विशिष्ट संख्या वाले आई.डी.बी. आई. शिक्षा बांड 98क।

[सं. 39/98-स्टाम्प-फा.सं. 15/33/98-वि.क.]

अपर्णा शर्मा, अवसर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 18th November, 1998

STAMPS

S.O. 2434.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Industrial Development Bank of India, Mumbai to pay consolidated stamp duty of rupees thirteen crores forty two lakhs thirty seven thousands and one hundred fifty only chargeable on account of the stamp duty on bonds in the nature of promissory notes described as—

- (a) IDBI Regular Income Bond 98-A bearing distinctive numbers from IFR 000001 to 2323135 of rupees five thousand each aggregating to rupees one thousand one hundred sixty one crores fifty six lakhs and seventy five thousands only;
- (b) IDBI Growing interest Bond 98A bearing distinctive numbers from IFG 3000001 to 3135980 of rupees five thousand each aggregating to rupees sixty seven crores and ninety nine lakhs only;
- (c) IDBI Deep Discount Bond 98A bearing distinctive numbers from IFD 4000001 to 4102275 of rupees ten thousand each aggregating to rupees one hundred two crores twenty seven lakhs and fifty thousands only; and
- (d) IDBI Education Bond 98A bearing distinctive numbers from IFE 5000001 to 5021078 of rupees five thousand each aggregating to rupees ten crores fifty three lakhs and ninety thousands only to be issued by the said Bank.

[No. 39/98 Stamps-F. No. 15/33/98-ST]

APARNA SHARMA, Under Secy.

(अर्थिक कार्य विभाग)

(बकिंग प्रभाग)

नई दिल्ली, 13 नवम्बर, 1998

का.आ. 2435.—भारतीय स्टेट बैंक (अनुषंगी बैंक) अधिनियम, 1959 (1959 का 38) की धारा 26 की उपधारा (1क) के साथ पठित धारा 25 की उपधारा (1) के खण्ड (ग) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श करने के पश्चात्, एतद्वारा संसद समय अनुषंगी बैंक अधिकारी परिसंघ के स्टेट बैंक आफ़ बीकानेर एण्ड जयपुर एकाई के संगठन सचिव, (सचिवालय हाउस, जयपुर में मुख्य प्रबंधक के रूप में तैनात) श्री के.के. सीनी को 13 नवम्बर, 1998 से 12 नवम्बर, 2001 तक अधिका स्टेट बैंक आफ़, बीकानेर

एण्ड जयपुर के अधिकारी के रूप में उनकी सेवाएं समाप्त होने तक, इनमें से जो भी पहले हो स्टेट बैंक आफ़ बीकानेर एण्ड जयपुर के बोर्ड में निवेशक नामित करती है। यह नामांकन रिट याचिका संख्या 4422-23/1998 (एल) पर कर्नाटक उच्च न्यायालय के अंतिम निर्णय के अधीन होगा।

[एफ. संख्या 8/4/98-बी. जे. -I]

के.के. मंगल, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 13th November, 1998

S.O. 2435.—In exercise of the powers conferred by clause (cb) of sub-section (1) of Section 25 read with sub-section (2-A) of Section 26 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), the Central Government, after consultation with the Reserve Bank of India, hereby nominates Shri K. K. Saini, presently Organising Secretary of the Associate Bank's Officer's Association Unit—State Bank of Bikaner and Jaipur (posted as Chief Manager Secretariat Branch, Jaipur) as a Director on the Board of State Bank of Bikaner and Jaipur with effect from 13 November, 1998 and upto 12 November, 2001, or until he ceases to be an officer of State Bank of Bikaner and Jaipur, whichever is earlier. The nomination will be subject to the final decision of the High Court of Karnataka in Writ Petition No. 4422-23/1998 (L.).

[F. No. 8/4/98-B O.I]

K. K. MANGAL, Under Secy.

सीमा शुल्क आयुक्तालय के आयुक्त का कार्यालय

पुणे, 6 नवम्बर, 1998

अधिसूचना संख्या 06/98-एन टी-सीमा शुल्क (पुणे)

का.आ. 2436:—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली द्वारा दिनांक 1-7-94 को जारी की गयी अधिसूचना संख्या 33/94-सीमा शुल्क (एन टी) के अधीन मुझे प्रदत्त अधिकारों को कार्यान्वित करते हुए, मै.जी.एस. नारंग, आयुक्त सीमा शुल्क आयुक्तालय, पुणे—एतद्वारा पुणे जिले के मुलशी तहसील के उरावडे ग्राम परिसर को, सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 में विनिर्दिष्ट व्यवस्थाओं के अनुसार, शत प्रतिशत निर्यात लक्ष्यी यूनिटों के प्रयोजन के लिये "वेयर हाउसिंग स्टेशन" के रूप में घोषित कर रहा हूं।

[फाइल संख्या VIII (सीमा शुल्क) 40-26/टीसी/98]

जी.एस. नारंग, आयुक्त

OFFICE OF THE COMMISSIONER OF CUSTOMS

Pune, the 6th November, 1998

NOTIFICATION NO. 6/98-NT-CUS (PUNE)

S.O. 2436.—In exercise of the powers conferred on me by the Notification No. 33/94-CUS(NT) dated 1-7-94 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I, G. S. NARANG, Commissioner of Customs, Pune, hereby declare village, Urawade, Taluka Mulshi Dist., Pune to be warehousing station under Section 9 of the Customs Act, 1962 (52 of 1962), for the purpose of setting up of 100 per cent E.O.U.

[F. No. VIII (CUS) 40-26/TC/98]
G. S. NARANG, Commissioner

उद्योग मंत्रालय

(औद्योगिक विकास विभाग)

नई दिल्ली, 17 नवम्बर, 1998

का.आ. 2437.—केन्द्रीय सरकार विस्फोटक अधिनियम की 1884 (1884 का 4) धारा 14 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आयल इंडिया लिमिटेड, दुलियाजा डिब्रुगढ़, आसाम, को मैसर्स ओवेन आयल टूल्स इंक 8900, फोरमवै, फोर्टवर्थ, टेक्सस, संयुक्त राज्य अमेरिका में कलकत्ता हवाई अड्डे पर निम्नलिखित विस्फोटकों के आयात के लिये विस्फोटक नियम, 1983 (इसके पश्चात् उक्त नियमों के रूप में निर्दिष्ट) के नियम 31(2) के प्रवर्तन से छूट देती है अर्थात्:—

क्रम सं.	विस्फोटक का नाम	यु.एच. क्लास सं.	नेट वेट	अधिकतम प्रति पैकेज (किलोग्राम)
1.	चार्ल्स, शेण्ड कर्मशियल	0441 एस	1.4	65.34 25
2.	डेटोनेटर्स इलेक्ट्रिक	0456 एस	1.4	0.59 25

ऊपर वर्णित विस्फोटक निम्नलिखित शर्तों पर आयात किये जायेंगे:—

1. सिविल विमानन महानिदेशक और भारत अन्तर्राष्ट्रीय विमान पत्तन प्राधिकरण से आवश्यक स्वीकृति प्राप्त की जायेगी और उपर्युक्त वा प्राधिकरणों द्वारा लगाई गई शर्तों, यदि कोई हो, का सख्ती से पालन किया जायेगा;

2. अन्तर्राष्ट्रीय विमान परिवहन संगम खतरनाक माल विनियम, 1996 की धारा 3 में दिये गये वर्गीकरण के केवल

प्रभाग 1ए 4 के अनुरूप विस्फोटकों का ही आयात किया जायेगा;

3. नियम 31 के उपनियम (2) के सिवाय, उक्त नियमों में यथाश्रित विस्फोटकों के कब्जा, परिवहन प्रयोग और आयात से संबंधित सुसंगत उपबंधों का कड़ाई से पालन किया जायेगा;

4. उक्त नियमों के अधीन अनुज्ञप्त पर्याप्त संख्या में विस्फोटक बैंक विमानपत्तन पर तैयार रखे जायेंगे जिससे कि विस्फोटकों का वायुयान के उतरते ही शीघ्रता से हटाया जा सके;

5. वायुयान को विमानपत्तन पर दूरस्थ स्थान पर खड़ा किया जायेगा और विस्फोटकों का वायुयान से बैंकों में अंतरण आरंभ करने से पहले महानिदेशक, सिविल विमानन के परामर्श से पर्याप्त संख्या में सुरक्षा गार्डों का प्रबंध कर वायुयान और विस्फोटक बैंक के चारों ओर कम से कम 500 वर्ग मीटर क्षेत्र को घेर लिया जायेगा। इंतजाम तब तक जारी रहेगा जब तक कि अंतरण पूरा नहीं कर लिया जाता है और सम्यक् रूप से बंद बैंक उस स्थल को छोड़ नहीं देती है;

6. घेरा बंद क्षेत्र के अन्दर कोई धूम्रपान या खुली बत्ती के उपयोग की अनुमति नहीं दी जायेगी; और

7. विस्फोटकों को ले जा रही बैंक उक्त नियमों के अधीन अनुज्ञप्त भंडारकरण मैगजीन की ओर अप्रसर होगी और रास्ते में कोई अनुचित विलंब नहीं किया जायेगा और विस्फोटक परिवहन के दौरान उक्त नियमों के सभी उपबन्धों और स्थानीय यातायात नियमों और नगरपालिका विनियमों का पालन किया जायेगा।

[फा.सं. 2/1/98-विस्फोटक(i)]

सोहन लाल; निदेशक

MINISTRY OF INDUSTRY

(Department of Industrial Development)

New Delhi, the 17th November, 1998

S.O.2437—In exercise of the powers conferred by sub-section (2) of section 14 of the Explosives Act, 1884 (4 of 1884), the Central Government hereby exempts M/s. Oil India Limited, Dulaijan, Dibrugarh (Assam), from observance of sub-rule (2) of rule 31 of the Explosives Rules, 1983 (hereinafter referred to as the said rules), for import of the following explosives from M/s Owen Oil Tools Inc. 8900, Forum-

Fortworth, Texas, United States of America, at Calcutta airport, namely :—

Sl. No.	Name of the explosives	U.N. number	Class	Net (weight in kilo-grams)	Maximum quantity per package (in kilo-grams)
1	2	3	4	5	6
1.	Charges Shaped, Commercial	0441	1.4S	65.34	25
2.	Detonators, Electric	0456	1.4S	0.59	25

2. The explosives mentioned in paragraph 1 shall by imported subject to the following conditions, namely :—

- (1) necessary clearances are obtained from the Director General of Civil Aviation and the International Airports Authority of India and conditions, if any, imposed by these two authorities shall be strictly complied with;
- (2) the explosives conforming only to Division 1.4 of the classification give in section 3 of the International Air Transport Association Dangerous Goods Regulations, 1996 shall be imported;
- (3) the relevant provisions relating to the possession, transport, use and import of explosives, as contained in the said rules, except sub-rule (2) of rule 31, shall be strictly complied with;
- (4) adequate number of explosives vans, licensed under the said rules, shall be kept ready at the airport so that the explosives may be removed expeditiously from the aircraft after its landing;
- (5) the aircraft shall be parked at a remote place at the airport and an area of at least five hundred square metres around the aircraft and explosives van shall be cordoned off by providing adequate number of security guards in consultation with the Director General of Civil Aviation before the transfer of explosives from aircraft to van is started. The arrange-

ment shall continue till such transfer is completed and the van, duly locked, leaves the site;

- (6) no smoking or use of naked light shall be permitted within the cordoned area and
- (7) the vans carrying the explosives shall proceed to the storage magazines licensed under the said rules and no undue delay shall be made on the way and all provisions of the said rules and local traffic rules and municipal regulations shall be complied with during the transportation of the explosives.

[F.No.2/1/98-Ex pl.(i)]
SOHAN LAL, Director

नई दिल्ली, 17 नवम्बर, 1998

का.आ. 2438.—केन्द्रीय सरकार विस्फोटक अधिनियम 1884 (1884 का 4) धारा 14 की उपधारा (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए मैसर्स आयल इंडिया लिमिटेड दुलियाजा डिब्रूगढ़ आसाम को मैसर्स बेकर आयल इन्फ्रस्ट्रक्चर्स हूस्टन 6023 नेविगेशन बोर्ड हूस्टन टेक्ससल, संयुक्त राज्य अमेरिका से कलकत्ता हवाई अड्डे पर निम्नलिखित विस्फोटकों के आयात के लिये विस्फोटक नियम 1983 (इसके पश्चात् उक्त नियमों के रूप में निर्दिष्ट) के नियम 31(2) के प्रवर्तन से छूट देती है अर्थात् :—

क्रम विस्फोटक का नाम यू.एच.सं. क्लास नेट वेट अधिकतम सं. नेट मावा प्रति पैकेज (किलोग्राम)

1. इन्नाइटर्स	0325	1.4 जी	3.00	75
2. इन्नाइटर्स	0454	1.4 एस	3.00	100
3. फ्लेमबल सॉलिड आर्गानिक्स	1325	4.1	45.36	50

ऊपर वर्णित विस्फोटक निम्नलिखित शर्तों पर आयात किये जायेंगे :—

1. सिविल विमानन महा निदेशक और भारत अन्तर्राष्ट्रीय विमान पत्तन प्राधिकरण से आवश्यक स्वीकृति प्राप्त की जायेगी और उपर्युक्त दो प्राधिकरणों द्वारा लगाई गई शर्तों यदि कोई हो, का सख्ती से पालन किया जायेगा;

2. अन्तर्राष्ट्रीय विमान परिवहन संगम खतरनाक मान विनियम 1996 की धारा 3 में दिये गये वर्गीकरण के केवल प्रभाग 1.4 के अनुरूप विस्फोटकों का ही आयात किया जायेगा;

3. नियम 31 के उपनियम (2) के सिवाय उक्त नियमों में यथाश्रितविष्ट विस्फोटकों के कब्जा परिवहन प्रयोग और आयात से संबंधित सुसंगत उपबंधों का कड़ाई से पालन किया जायेगा;

4. उक्त नियमों के अधीन अनुज्ञप्त पर्याप्त संख्या में विस्फोटक बैन विमानपत्तन पर तैयार रखे जायेंगे जिससे कि विस्फोटकों को वायुयान के उतरते ही शीघ्रता से हटाया जा सके;

5. वायुयान को विमानपत्तन पर दूरस्थ स्थान पर खड़ा किया जायेगा और विस्फोटकों का वायुयान से बैनो में अंतरण आरंभ करने से पहले महानिदेशक सिविल विमानन के परामर्श से पर्याप्त संख्या में सुरक्षा गार्डों का प्रबन्ध कर वायुयान और विस्फोटक बैन के चारों ओर कम से कम 500 वर्ग मीटर क्षेत्र को घेर लिया जायेगा इंतजाम तब तक जारी रहेगा जब तक कि अंतरण पूरा नहीं कर लिया जाता है और सम्यक रूप से बंद बैन उस स्थल को छोड़ नहीं देती है;

6. घेरा बंद क्षेत्र के अन्दर कोई धूम्रपान या खुली बत्ती के उपयोग की अनुमति नहीं दी जायेगी; और

7. विस्फोटकों को ले जा रही बैन उक्त नियमों के अधीन अनुज्ञप्त भंडारकरण मंजूर की ओर अग्रसर होगी और रास्ते में कोई अनुज्ञित विलंब नहीं किया जायेगा और विस्फोटक परिवहन के दौरान उक्त नियमों के सभी उपबंधों और स्थानीय यातायात नियमों और नगरपालिका विनियमों का पालन किया जायेगा।

[फा. सं. 2/1/98-विस्फोटक(ii)]

सोहन लाल, निदेशक

New Delhi, the 17th November, 1998

S. O. 2438.—In exercise of the powers conferred by sub-section (2) of section 14 of the Explosives Act, 1884 (4 of 1884), the Central Government hereby exempts M/s. Oil India Limited, Dulaijan, Dibrugarh (Assam), from observance of sub-rule (2) of rule 31 of the Explosives Rules, 1983 (hereinafter referred to as the said rules), for import of the following explosives from M/s Baker Oil Tools Houston, 6023, Navigation Boulevard, Houston, Texas, United States of America, at Calcutta airport, namely,—

S. No.	Name of the explosives	U.N. number	Class	Net weight (in kilograms)	Maximum net quantity per package (in kilograms)
1.	Flammable solid, Organics	1325	4.1	45.36	50
2.	Igniters	0325	1.4G	3.00	75
3.	Igniters	0454	1.4S	3.00	100

2. The explosives mentioned in paragraph 1 shall be imported subject to the following conditions, namely:—

(1) necessary clearances are obtained from the Director General of Civil Aviation and the International Airports Authority of India and conditions, if any, imposed by these two authorities shall be strictly complied with.

(2) the explosives conforming only to Division 1.4 of the classification given in section 3 of the International Air Transport Association Dangerous Goods Regulations, 1996 shall be imported.

(3) the relevant provisions relating to the possession, transport, use and import of explosives, as contained in the said rules, except sub-rule (2) of rule 31, shall be strictly complied with.

(4) adequate number of explosives vans, licensed under the said rules, shall be kept ready at the airport so that the explosives may be removed expeditiously from the aircraft after its landing;

(5) the aircraft shall be parked at a remote place at the airport and an area of atleast five hundred square metres around the aircraft and explosives van shall be cordoned off by providing adequate number of security guards in consultation with the Director General of Civil Aviation before the transfer of explosives from aircraft to van is started. The arrangement shall continue till such transfer is completed and the van, duly locked, leaves the site;

(6) no smoking or use of naked light shall be permitted within the cordoned area; and

(7) the vans carrying the explosives shall proceed to the storage magazines licensed under the said rules and no undue delay shall be made on the way and all provisions of the said rules and local traffic rules and municipal regulations shall be complied with during the transportation of the explosives.

[F.No. 2/1/98-Expl.(ii)]

SOHAN LAL, Director

नई दिल्ली, 17 नवम्बर, 1998

का.ग्रा. 2439.—केन्द्रीय सरकार, विस्फोटक अधिनियम 1884 (1884 की धारा 4) की धारा 14 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड, देहरादून, को मैसर्स हैलिवर्टन एनर्जी सर्विस, टेक्सस, संयुक्त राज्य अमेरिका से मुम्बई हवाई अड्डे पर निम्नलिखित विस्फोटकों के आयात के लिए विस्फोटक नियम, 1983 (इसके पश्चात्

उक्त नियमों के रूप में निविष्ट) के नियम 31(2) के प्रवर्तन से छूट देती है, अर्थात् :—

क्रमसं.	विस्फोटक का नाम	यू.एन. सं.	क्लास (किलो ग्राम)	नेट वेट अधिकतम प्रति पैकेज (किलोग्राम)
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1.	कार्ट्रिजस, आयल वेल	0278	1.4 जी	9 75
2.	इग्नाइटर	0325	1.4 जी	15 75

ऊपर वर्णित विस्फोटक निम्नलिखित शर्तों पर आयात किये जायेंगे :—

1. सिविल विमानन महानिदेशक और भारत अन्तर्राष्ट्रीय विमानपत्तन प्राधिकरण से आवश्यक स्वीकृति प्राप्त की जाएगी और उपर्युक्त दो प्राधिकरणों द्वारा लगाई गई शर्तों, यदि कोई हो, का सख्ती से पालन किया जायेगा

2. अन्तर्राष्ट्रीय विमान परिवहन संगम खतरनाक माल विनियम, 1996 की धारा 3 में दिये गये वर्गीकरण के केवल प्रभाग 1ए 4 के अनुरूप विस्फोटकों का ही आयात किया जायगा;

3. नियम 31 के उपनियम (2) के सिवाय, उक्त नियमों में यथाश्रित विस्फोटकों के कब्जा, परिवहन, प्रयोग और आयात से संबंधित सुसंगत उपबंधों का कड़ाई से पालन किया जायेगा;

4. उक्त नियमों के अधीन अनुज्ञप्त पर्याप्त संख्या में विस्फोटक बैंड विमानपत्तन पर तैयार रखे जिससे कि विस्फोटकों को वायुयान के उतरते ही शीघ्रता से हटाया जा सके;

5. वायुयान को विमानपत्तन पर दूरस्थ स्थान पर खड़ा किया जायगा और विस्फोटकों का वायुयान से बैंडों में अंतरण आरंभ करने से पहले महानिदेशक, सिविल विमानन के परामर्श से पर्याप्त संख्या में सुरक्षा गार्डों का प्रबन्ध कर वायुयान और विस्फोटक बैंड के चारों ओर कम से कम 500 वर्ग मीटर क्षेत्र को घेर लिया जायेगा। इंतजाम तब तक जारी रहेगा जब तक कि अंतरण पूरा नहीं कर लिया जाता है और मम्पक् रूप से बंद बैंड उस स्थान को छोड़ नहीं देती है;

6. घेरा बंद क्षेत्र के अन्दर कोई धूम्रपान या खुली बत्ती के उपयोग की अनुमति नहीं दी जायेगी; और

7. विस्फोटकों को ले जा रही बैंड उक्त नियमों के अधीन अनुज्ञप्त भंडारकरण मैगजीन की ओर अग्रसर होगी और रास्ते में कोई अनुचित विलंब नहीं किया जायेगा और विस्फोटक परिवहन के दौरान उक्त नियमों

के सभी उपबंधों और स्थानीय यातायात नियमों और नगरपालिका विनियमों का पालन किया जायेगा।

[फा.सं. 2/1/98-विस्फोटक(iii)]

मोहन लाल, निदेशक

New Delhi, the 17th November, 1998

S.O. 2439.—In exercise of the powers conferred by sub-section (2) of section 14 of the Explosives Act, 1884 (4 of 1884), the Central Government hereby exempts M/s. Oil and Natural Gas Corporation Ltd., Dehradun from observance of sub-rule (2) of rule 31 of the Explosives Rules, 1983 (hereinafter referred to as the said rules), for import of the following explosives from M/s Halliburton Energy Services, Texas, United States of America at Mumbai airport, namely:—

S. No.	Name of the explosives	U.N. number	Class	Net weight (in kilo-grams)	Maximum net quantity per package (in kilo-grams)
1.	Cartridges, Oil Well	0278	1.4C	15	75
2.	Igniters	0325	1.4G	9	75

2. The explosives mentioned in paragraph 1 shall be imported subject to the following conditions, namely:—

(1) necessary clearances are obtained from the Director General of Civil Aviation and the International Airports Authority of India and conditions, if any, imposed by these two authorities shall be strictly complied with;

(2) the explosives conforming only to Division 1.4 of the classification given in section 3 of the International Air Transport Association Dangerous Goods Regulations, 1996 shall be imported;

(3) the relevant provisions relating to the possession, transport, use and import of explosives, as contained in the said rules, except sub rule (2) of rule 31, shall be strictly complied with;

(4) adequate number of explosives vans, licensed under the said rules, shall be kept ready at the airport so that the explosives may be removed expeditiously from the aircraft after its landing;

(5) the aircraft shall be parked at a remote place at the airport and, an area of at least five hundred square metres around the aircraft and explosives van shall be cordoned off by providing adequate number of security guards in consultation with the Director General of Civil Aviation before the transfer of explosives from aircraft to van is started. The arrangement shall continue till such transfer is completed and the van, duly locked, leaves the site;

(6) no smoking or use of naked light shall be permitted within the cordoned area; and

(7) the vans carrying the explosives shall proceed to the storage magazines licensed under the said rules and no undue delay shall be made on the way and all provisions of the said rules and local traffic rules and municipal regulations shall be complied with during the transportation of the explosives.

[F.No.2/1/98-Expl. (iii)]

SOHAN LAL, Director

नई दिल्ली, 17 नवम्बर, 1998

का.आ. 2440.—केन्द्रीय सरकार. विस्फोटक अधिनियम, 1884 (1884 का 4) की धारा 14 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड, पी.आ. नाजीरा, 725685, को मैसर्स कम्प्यूटलाग लिमिटेड, 2000, 530-8 एवम्, एस डब्ल्यू केलेरीश अलबरटा, कनेडा से कलकत्ता हवाई अड्डे पर निम्नलिखित विस्फोटकों के आयात के लिए विस्फोटक नियम, 1983 (इसके पश्चात् उक्त नियमों के रूप में निरूपित) के नियम 31(2) के प्रवर्तन में छूट देती है, अर्थात् :—

क्रम सं.	विस्फोटक का नाम	यु.एन. सं.	क्लास	नेट वेट अधिकतम प्रति पैकेज (किलोग्राम)
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1.	कॉस्ट्रिड्जिंग, आयल वेस	0278	1.4 मो	405 75
2.	कार्ड डेटोनेटिंग	0289	1.4 डी	16 75
3.	ट्रिटोनेटर्स, इलेक्ट्रिक	0456	1.4 एस	04 125

ऊपर वर्णित विस्फोटक निम्नलिखित शर्तों पर आयात किए जायेंगे :—

1. सिविल विमानन महानिदेशक और भारत अन्तर्राष्ट्रीय विमान पत्तन प्राधिकरण से आवश्यक स्वीकृति प्राप्त की 3097 GI/98—2

जायेगी और उपर्युक्त दो प्राधिकरणों द्वारा लगाई गई शर्तों, यदि कोई हो, का सख्ती से पालन किया जायेगा;

2. अन्तर्राष्ट्रीय विमान परिवहन संगम खतरनाक माल विनियम, 1996 की धारा 3 में दिये गए वर्गीकरण के केवल प्रभाग 1ए 4 के अनुरूप विस्फोटकों का ही आयात किया जायेगा;

3. नियम 31 के उपनियम (2) के सिवाय, उक्त नियमों में यथाश्रित विस्फोटकों के कब्जा, परिवहन, प्रयोग और आयात से संबंधित सुसंगत उपबन्धों का कड़ाई से पालन किया जायेगा;

4. उक्त नियमों के अधीन अनुज्ञप्त पर्याप्त संख्या में विस्फोटक बैं विमानपत्तन पर तैयार रखे जायेंगे जिससे कि विस्फोटकों को वायुयान के उतरते ही ग्रीष्मता से हटाया जा सके;

5. वायुयान को विमानपत्तन पर दूरस्थ स्थान पर खड़ा किया जायेगा और विस्फोटकों का वायुयान से बैं में अंतरण आरंभ करने से पहले महानिदेशक, सिविल विमानन के परामर्श में पर्याप्त संख्या में सुरक्षा गार्डों का प्रबन्ध कर वायुयान और विस्फोटक बैं के चारों ओर कम से कम 500 वर्ग मीटर क्षेत्र को घेर लिया जायेगा। इंतजाम तब तक जारी रहेगा जब तक कि अंतरण पूरा नहीं कर लिया जाता है और सम्यक् रूप से बंद बैं उस स्थल को छोड़ नहीं देती है;

6. घेरा बंद क्षेत्र के अन्दर कोई धूम्रपान या खुली बत्ती के उपयोग की अनुमति नहीं दी जायेगी; और

7. विस्फोटकों को ले जा रही बैं उक्त नियमों के अधीन अनुज्ञप्त भंडारकरण मैगजीन की ओर अग्रसर होगी और रास्ते में कोई अनुचित विलंब नहीं किया जायेगा और विस्फोटक परिवहन के दौरान उक्त नियमों के सभी उपबन्धों और स्थानीय यातायात नियमों और नगरपालिका विनियमों का पालन किया जायेगा।

[फा.सं. 2/1/98-विस्फोटक (iv)]

सोहन लाल, निदेशक

New Delhi, the 17th November, 1998

S.O. 2440.—In exercise of the powers conferred by sub-section (2) of Section 14 of the Explosives Act, 1884 (4 of 1884), the Central Government hereby exempts M/s. Oil and Natural Gas Corporation Ltd. P.O. Nazira-785685, Assam, from observance of sub-rule (2) of rule 31 of the Explosives Rules, 1983 (hereinafter referred to as the said rules), for import of the following explosives from M/s Computalog

Limited, 2000, 530-8th Avenue, SW Calgary, Alberta, Canada, at Calcutta airport, namely:—

Sl. No.	Name of the explosives	U.N. No.	Class	Net weight (in Kgs.)	Maximum quantity per package (in Kgs.)
1.	Cartridges, Oil Well	0278	1.4C	405	75
2.	Cord, Detonating	0289	1.4D	16	75
3.	Detonators, electric	0456	1.4S	04	125

2. The explosives mentioned in paragraph 1 shall be imported subject to the following conditions, namely:—

- (1) necessary clearances are obtained from the Director General of Civil Aviation and the International Airports Authority of India and conditions, if any, imposed by these two authorities shall be strictly complied with;
- (2) the explosives conforming only to Division 1.4 of the classification given in section 3 of the International Air Transport Association Dangerous Goods Regulations, 1996 shall be imported;
- (3) the relevant provisions relating to the possession, transport, use and import of explosives, as contained in the said rules, except sub-rule (2) of rule 31, shall be strictly complied with;
- (4) adequate number of explosives vans, licensed under the said rules, shall be kept ready at the airport so that the explosives may be removed expeditiously from the aircraft after its landing
- (5) the aircraft shall be parked at a remote place at the airport and an area of at least five hundred square metres around the aircraft and explosives van shall be cordoned off by providing adequate number of security guards in consultation with the Director General of Civil Aviation before the transfer of explosives from aircraft to van is started. The arrangement shall continue till such transfer is completed and the van, duly locked, leaves the site;
- (6) no smoking or use of naked light shall be permitted within the cordoned area; and

- (7) the vans carrying the explosives shall proceed to the storage magazines licensed under the said rules and no undue delay shall be made on the way and all provisions of the said rules and local traffic and rules municipal regulations shall be complied with during the transportation of the explosives.

[F.No. 2/1/98-Expl. (iv)]
SOHAN LAL, Director

नई दिल्ली, 17 नवम्बर, 1998

का.आ. 2441.—केन्द्रीय सरकार, विस्फोटक अधिनियम, 1884 (1884 का 4) की धारा 14 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आयात एण्ड नेचुरल गैस कारपोरेशन लिमिटेड पी.आ. नाजीरा 785685 को मैसर्स इलुम्वर्गर वेल सर्विस 14910 एयरलाइन रोड, टेक्सस संयुक्त राज्य अमेरिका से कलकत्ता हवाई अड्डे पर निम्नलिखित विस्फोटकों के आयात के लिये विस्फोटक नियम, 1983 (इसके पश्चात् उक्त नियमों के रूप में निर्दिष्ट) के नियम 31(2) के प्रवर्तन से छूट देती है अर्थात् :—

क्रम सं.	विस्फोटक का नाम	यू.एन. सं.	क्लास	नेट वेट	अधिकतम नेटमात्रा प्रति पैकेज (किलोग्राम)
1.	इग्नाइटर्स	0325	1.4 जी	2.73	75
2.	कार्ड डेटोनेटिंग	0289	1.4 डी	8.94	75
3.	आर्टिकल, नाट अवरेखाइस स्पेसिफाइड	0349	1.4 एस	3.39	100

ऊपर वर्णित विस्फोटक निम्नलिखित शर्तों पर आयात किये जायेंगे :—

1. सिविल विमानन महानिदेशक और भारत अन्तर्राष्ट्रीय विमान पत्तन प्राधिकरण से आवश्यक स्वीकृति प्राप्त की जायेगी और उपर्युक्त दो प्राधिकरणों द्वारा लगाई गई शर्तों यदि कोई हो, का सख्ती से पालन किया जायेगा ;
2. अन्तर्राष्ट्रीय विमान परिवहन संगम खतरनाक माल विनियम, 1996 की धारा 3 में दिये गये वर्गीकरण के केवल प्रभाग 1ए 4 के अनुरूप विस्फोटकों का ही आयात किया जायेगा ;
3. नियम 31 के उपनियम (2) के सिवाय, उक्त नियमों में यथासंश्लिष्ट विस्फोटकों के कब्जा, परिवहन, प्रयोग और आयात से संबंधित सुसंगत उपबंधों का कड़ाई से पालन किया जायेगा ;

4. उक्त नियमों के अधीन अनुज्ञप्त पर्याप्त संख्या में विस्फोटक बैन विमानपत्तन पर तैयार रखे जायेंगे जिससे कि विस्फोटकों को वायुयान के उतरते ही शीघ्रता से हटाया जा सके;

5. वायुयान को विमानपत्तन पर दूरस्थ स्थान पर खड़ा किया जायेगा और विस्फोटकों का वायुयान से बैनों में अंतरण आरंभ करने से पहले महानिदेशक, सिविल विमानन के परामर्श से पर्याप्त संख्या में सुरक्षा गार्डों का प्रबन्ध कर वायुयान और विस्फोटक बैन के चारों ओर कम से कम 500 वर्ग मीटर क्षेत्र को घेर लिया जायेगा। इंतजाम तब तक जारी रहेगा जब तक कि अंतरण पूरा नहीं कर लिया जाता है और सम्यक् रूप से बंद बैन उस स्थल को छोड़ नहीं देती है;

6. घेरा बंद क्षेत्र के अन्दर कोई धूम्रपान या खुली बत्ती के उपयोग की अनुमति नहीं दी जायेगी; और

7. विस्फोटकों को ले जा रही बैन उक्त नियमों के अधीन अनुज्ञप्त भंडारकरण मैगजीन की ओर भ्रमसर होगी और रास्ते में कोई अनुचित बिलंब नहीं किया जायेगा और विस्फोटक परिवहन के दौरान उक्त नियमों के सभी उपबन्धों और स्थानीय यातायात नियमों और नगरपालिका विनियमों का पालन किया जायेगा।

[फा.सं. 2/1/98-विस्फोटक(v)]

सोहन लाल, निदेशक

New Delhi, the 17th November, 1998

S.O. 2441.—In exercise of the powers conferred by sub-section (2) of section 14 of the Explosives Act, 1884 (4 of 1884), the Central Government hereby exempts M/s. Oil and Natural Gas Corporation Ltd., P.O. Nazira-785685, Assam, from observance of sub-rule (2) of rule 31 of the Explosives Rules, 1983 (hereinafter referred to as the said rules), for import of the following Explosives from M/s. Schlumberger Well Services, 14910, Airline Road, Rosharon, Texas United States of America, at Calcutta airport, namely:—

Sl. No.	Name of the explosives	U.N. No.	Class	Net weight (in Kgs.)	Maximum net quantity per package (in Kgs.)
1.	Igniters	0325	1.4G	2.73	75
2.	Articles, explosives, Not otherwise specified	0349	1.4S	3.39	100
3.	Cord, Detonating	0289	1.4D	8.94	75

2. The explosives mentioned in paragraph 1 shall be imported subject to the following conditions, namely:—

- (1) necessary clearances are obtained from the Director General of Civil Aviation and the International Airports Authority of India and conditions, if any, imposed by these two authorities shall be strictly complied with;
- (2) the explosives conforming only to Division 1.4 of the classification given in section 3 of the International Air Transport Association Dangerous Goods Regulations, 1996 shall be imported;
- (3) the relevant provisions relating to the possession, transport, use and import of explosives, as contained in the said rules, except sub-rule (2) of rule 31, shall be strictly complied with;
- (4) adequate number of explosives vans, licensed under the said rules, shall be kept ready at the airport so that the explosives may be removed expeditiously from the aircraft after its landing;
- (5) the aircraft shall be parked at a remote place at the airport and an area of atleast five hundred square metres around the aircraft and explosives van shall be cordoned off by providing adequate number of security guards in consultation with the Director General of Civil Aviation before the transfer of explosives from aircraft to van is started. The arrangement shall continue till such transfer is completed and the van, duly locked, leaves the site;
- (6) no smoking or use of naked light shall be permitted within the cordoned area; and
- (7) the vans carrying the explosives shall proceed to the storage magazines licensed under the said rules and no undue delay shall be made on the way and all provisions of the said rules and local traffic rules and municipal regulations shall be complied with during the transportation of the explosives.

[F.No. 2/1/98-Expl. (v)]

SOHAN LAL, Director

विदेश मंत्रालय
(कंसुलर अनुभाग)

नई दिल्ली, 9 नवम्बर, 1998

का.आ. 2442.—राजनयिक कौंसली अधिकारी (गपथ एवम् शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का दूतावास, डकार में सहायक श्री आर. एस. सखरवाल को 5-11-98 से सहायक कौंसली अधिकारी का कार्य करने के लिये प्राधिकृत करती है।

[सं. टी. 4330/1/98]

एन.यू. अविराचन, अवर सचिव (पीवीएस)

MINISTRY OF EXTERNAL AFFAIRS
(Consular Section)

New Delhi, the 9th November, 1998

S. O. 2442.—In pursuance of Clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri R. S. Sabharwal, Assistant, in the Embassy of India, Dakar to perform the duties of Assistant Consular Officer with effect from 5-11-98.

[No. T. 4330/1/98]

N. U. AVIRACHEN, Under Secy. (Cons)

योजना और कार्यक्रम वायम्बियन मंत्रालय
(सांख्यिकी विभाग)

नई दिल्ली, 2 नवम्बर, 1998

का.आ. 2443.—सांख्यिकी संग्रहण अधिनियम, 1953 (1953 का 32) की धारा 4 में प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा दिनांक 18 फरवरी, 1960 के मंत्रिमंडल सचिवालय, सं. एस.ओ. 462 में भारत सरकार की अधिसूचना में संशोधित विषयों के बारे में सांख्यिकी संग्रहण के प्रयोजन हेतु सांख्यिकी प्राधिकारी के नाते, उप महानिदेशक, क्षेत्र संकाय प्रभाग, रा.प्र. सर्वे सं., सांख्यिकी विभाग नियुक्त करती है तथा उक्त अधिसूचना में निम्न प्रकार से संशोधन किया जाता है :—

उक्त अधिसूचना में, "निदेशक, क्षेत्र संकाय प्रभाग, सांख्यिकीय विभाग" शब्दों के स्थान पर "उप महानिदेशक, क्षेत्र संकाय प्रभाग, रा.प्र. सर्वे सं., सांख्यिकी विभाग" प्रतिस्थापित होंगे।

[संख्या एम-15011/1/98-प्र.आ.-3]

रा. रवि, अवर सचिव

पाद टिप्पणी :—मुख्य अधिसूचना दिनांक 18-2-60 के एस.ओ. सं. 462 के तहत प्रकाशित की

गई थी तथा इसमें तबन्तर निम्नलिखित
अधिसूचनाओं के तहत संशोधन किये गये :—

1. का.आ. 4249 दिनांक 13-10-1969
2. का.आ. 4471 दिनांक 6-12-1968
3. का.आ. 1325 दिनांक 26-3-1969
4. का.आ. 752 दिनांक 2-2-1971
5. का.आ. 1009 दिनांक 17-4-1972
6. का.आ. 2335 दिनांक 12-5-1983
7. का.आ. 4736 दिनांक 16-12-1983
8. का.आ. 2153 दिनांक 18-7-1991
9. का.आ. 1480 दिनांक 22-5-1992

MINISTRY OF PLANNING AND PROGRAMME
IMPLEMENTATION

(Department of Statistics)

New Delhi, the 2nd November, 1998

S.O. 2443.—In exercise of the powers conferred by Section 4 of the Collection of Statistics Act, 1953 (32 of 1953) the Central Government hereby appoints the Deputy Director General, Field Operations Division, National Sample Survey Organisation, Department of Statistics to be the 'Statistics Authority' for the purpose of collecting statistics relating to the matters referred to in the notification of the Government of India in the Cabinet Secretariat, No. S.O. 462, dated the 18th February, 1960 and makes the following amendment in the said notifications, namely :—

In the said notification, for words "Director, Field Operations Division, Department of Statistics", the words "Deputy Director General, Field Operations Division, National Sample Survey Organisation, Department of Statistics" shall be substituted.

[No. M-15011/1/98-Ad. III]

R. RAVI, Under Secy.

Footnotes :—The principal notification was published vide S.O. No. 462, dated 18-2-60, and subsequently amended vide the following Notifications :—

1. S.O. 4249 dated 13-10-1969
2. S.O. 4471 dated 6-12-1968
3. S.O. 1325 dated 26-3-1969
4. S.O. 752 dated 2-2-1971
5. S.O. 1009 dated 17-4-1972
6. S.O. 2335 dated 12-5-1983
7. S.O. 4736 dated 16-12-1983
8. S.O. 2153 dated 18-7-1991
9. S.O. 1480 dated 22-5-1992.

मानव संसाधन विकास मंत्रालय

(संस्कृति विभाग)

नई दिल्ली, 18 नवम्बर, 1998

का.प्र. 2444.—कला क्षेत्र प्रतिष्ठान अधिनियम, 1993 की धारा 11 द्वारा प्रेषण शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा कला क्षेत्र प्रतिष्ठान के शासी बोर्ड में निम्नलिखित व्यक्तियों को पांच वर्ष की अवधि के लिये नामित करती है :—

(क) अध्यक्ष, खण्ड (क) के तहत नियुक्त :

श्री आर. वेंकटरमण, भारत के पूर्व राष्ट्रपति

5-सफ़ेदरजंग रोड,

नई दिल्ली-110011

(ख) सदस्य, खण्ड (ख) के तहत नामित :

1. श्रीमती वैजयन्ती माला बाली, 80-मर. सी.पी.

रामास्वामी अस्वयं रोड, अलवरपेट, चेन्नई-600018

2. पंडित जसराज, राजकमल बिल्डिंग, 138, शिवाजी पार्क, मुम्बई-400016

3. डा. एम. बालामुरली कृष्णन, संख्या 3 महाती, कनक श्रीनगर, चेन्नई-600086

4. न्यायमूर्ति एस. मोहन (सेवानिवृत्त) न्यायाधीश उच्चतम न्यायालय,

5. पदमश्री लालगुडी श्री जी जयरमण, 13-14

रामानुजम स्ट्रीट, टी नगर, चेन्नई-600017

6. श्री आर.वी. रमानी, 45, कलाक्षेत्र रोड, चेन्नई-600041

7. श्री एन. कृष्णन, आई.एफ.एस. (सेवानिवृत्त) 2-सी, किंग्स क्रैस्ट अपार्टमेंट्स, 8 माइलर्स रोड, बंगलूर-560046

8. श्रीमती सोनल मानसिंह, अध्यक्ष, भारतीय शास्त्रीय नृत्य केन्द्र, सी-304, डिफेंस कालोनी, नई दिल्ली-110024

9. उस्ताद गुलाम दस्तगीर खॉन, डी-469, मंदिर मार्ग, नई दिल्ली-110001

10. पंडित हरी प्रसाद चौरसिया, "सावित्री", 19वां रोड, खार, मुम्बई-400016

11. श्रीमती पद्मा सुब्रह्मण्यम, संख्या-6, चतुर्थ मेन रोड, गांधी नगर, चेन्नई-600020

12. श्री टी.टी. वासु, 6, कैथड्रल रोड, चेन्नई-600086

(ग) पदेन-सदस्य, केन्द्रीय सरकार द्वारा खण्ड (घ) के तहत नामित :

(1) सचिव (संस्कृति), संस्कृति विभाग, नई दिल्ली अथवा उनका नामित सदस्य।

(2) वित्त सहायकार, मानव संसाधन विकास मंत्रालय नई दिल्ली।

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Culture)

New Delhi, the 18th November, 1998

S.O. 2444.—In exercise of the powers conferred by Section 11 of the Kalakshetra Foundation Act, 1993, the Central Government hereby makes the following nominations on the Governing Board of the Kalakshetra Foundation for a term of five years :

(a) Chair-person, appointed under clause (a) :

Shri R. Venkataraman, Former President of India, 5-Safdarjung Road, New Delhi-110011.

(b) Members, nominated under clause (b) :

1. Smt. Vyjayanthimala Bali, 80-Sir, C. P. Ramaswamy Iyer Road, Alwarpet, Chennai-600018.

2. Pandit Jasraj, Rajkamal Building, T38 Shivaji Park, Bombay-400016.

3. Dr. M. Balamurali Krishna, No. 3 Mahati, Kanaka Sri Nagar, Chennai-600086.

4. Justice S. Mohan (Retd.), Judge Supreme Court, No. 41, Venkatakrishna Iyer Road, Chennai-600028.

5. Padamsri Lalgudi Sri G. Jayaraman, 13-14, Ramanujam Street, T. Nagar, Chennai-600017.

6. Shri R. V. Ramani, 45, Kalakshetra Road, Chennai-600041.

7. Shri N. Krishnan, I.F.S. (Retd). 2-C, Kings Crest Apartments, 8-Milers Road, Bangalore-560046.

8. Mrs. Sonal Mansingh, President, Centre for Indian Classical Dances, C-304, Defence Colony, New Delhi-110024.

9. Ustad Ghulam Dastagir Khan, D-469, Mandir Marg, New Delhi-110001.

10. Pt. Hari Prasad Chaurasia, "Savitri", 19th Road, KHAR, Bombay-400016.

11. Smt. Padama Subramaniam, No. 6, 4th Main Road, Gandhi Nagar, Chennai-600020.

12. Shri T. T. Vasu, 6, Cathedral Road, Chennai-600086.

(c) Members, ex-officio, nominated under clause (d) by the Central Government :

(i) Secretary (C), Department of Culture, New Delhi or his nominee.

(ii) Financial Adviser, Ministry of Human Resource Development, New Delhi.

[सं. फा. 3-2/98-परिसर]

वी.के. लखनपाल, निदेशक

[No. F. 3-2/98-Parisar]

V. K. LAKHANPAL, Director

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 17 नवम्बर, 1998

का.आ. 2445.—केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि द्रामाध प्रदेश राज्य में द्राविडियालम से टाटीपाका गैस एक्शन केन्द्र तक पाइपलाइन के माध्यम से तरल पेट्रोलियम गैस के परिवहन के लिए गैस अघारिटी आफ इंडिया लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए।

और कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए हम अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि के उपयोग के अधिकार का अर्जन करना आवश्यक है।

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है,

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित हम अधिसूचना की प्रतियां माधारेण जनता की उपलब्धता करा दिए जाने की तारीख से 21 (इक्कीस) दिनों के भीतर, उसमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन बिछाने के संबंध में आक्षेप लिखित रूप में सक्षम प्राधिकारी, गैस अघारिटी आफ इंडिया लिमिटेड, के.जी. बेसिन परियोजना, दपनावईपेट्टा, राजमंड्री-533104 (द्रामाध प्रदेश) को कर सकेगा।

अनुसूची

जिला	मंडल	ग्राम	प्लॉट संख्या	उ.का.अ. के लिए अर्जन की जाने वाली भूमि (हेक्टेयर में)
1	2	3	4	5
ईस्ट गोवावरी	मलिकीपुरम	गुहापाथी	132-12 भाग	0.0825
			132-13 भाग	0.1112
			132-14 भाग	0.0300
			133-8 भाग	0.0100
			133-9 भाग	0.0550
			133-10 भाग	0.0175
			136-1 भाग	0.0350
			136-2 भाग	0.0450
			136-4 भाग	0.2723
			138-5 भाग	0.0125
			138-6 भाग	0.0450
			138-25 भाग	0.0750
			138-10 भाग	0.0200
			138-11 भाग	0.0725
			138-12 भाग	0.0925
			138-24 भाग	0.0016
			139-10 भाग	0.0700
			139-13 भाग	0.1100
			120-3 भाग	0.1700
			119 भाग	0.3125
			118-2 भाग	0.0100
			118-3 भाग	0.0925
			118-4 भाग	0.0100
			118-6 भाग	0.1650
			118-7 भाग	0.1866
			118-8 भाग	0.1025
			115 भाग	0.0100
			116-1 भाग	0.6050
			116-3 भाग	0.1250
			116-4 भाग	0.2550
			114 भाग	0.0350

सरकारी पोरमबोके

1	2	3	4	5
ईस्ट गोदावरी	मलिकीपुरम	गुडापाली	50/5 भाग	0.0250
			50-6 भाग	0.0700
			49-1 बी भाग	0.0700
			49-4 भाग	0.0737
			49-3 भाग	0.0075
			सरकारी पोरमबोके:	
			51-5 भाग	0.0250
			51-6 भाग	0.0005
			51-7 भाग	0.0300
			51-8 भाग	0.0450
			51-9 भाग	0.0025
			सरकारी पोरमबोके	
			51-12 भाग	5.0200
			48-1 ए भाग	0.0400
			48-1 बी भाग	0.1175
			48-1 सी भाग	0.0100
			48-3 भाग	0.0525
			48-12 भाग	0.1550
			48-5 भाग	0.0275
			48-13 भाग	0.9675
			48-10 भाग	0.1050
			44 भाग	0.0225
			सरकारी पोरमबोके	
			41-2 भाग	0.1575
			41-6 भाग	0.0600
			27-1 भाग	0.1925
			26-4 भाग	0.4450
			26-2 भाग	0.0500
			26-3 भाग	0.1000
			25-2 भाग	0.0316
			31 भाग	0.3925
			30 भाग	0.0416
			सरकारी पोरमबोके	
				0.6743
		केसाला पल्ली	23-2 भाग	0.0100
			23-3 भाग	0.1900
			सरकारी पोरमबोके	
			23-4 भाग	0.2750
			5-6 भाग	0.0025
			5-7 भाग	0.0050
			5-8 भाग	0.0025
			20-1ए भाग	0.0150
			20-2ए भाग	0.0250
			20-3ए भाग	0.0300
			20-1बी भाग	0.0275
			सरकारी पोरमबोके	
			19-1ए भाग	0.0500
			19-2ए भाग	0.0275
			19-3ए भाग	0.0150
			17-1ए भाग	0.0875
			17-2ए भाग	0.0300
			17-3ए भाग	0.0266

1	2	3	4	5
			17-4ए भाग	0.0300
			17-5ए	5.0550
			17-5 बी भाग	0.0050
			सरकारी पोरमबोके	
			16-1 भाग	0.0162
			16-2 भाग	0.0550
			16-3 भाग	0.0350
			16-11 भाग	0.0100
			16-12ए भाग	0.1450
			16-2ए भाग	0.0200
			12-4ए भाग	0.0200
			12-5ए भाग	0.0200
			12-6ए भाग	0.0300
			12-7ए भाग	0.0375
			12-8 भाग	0.0225
			12-9 भाग	0.0150
			12-10 भाग	0.0006
			12-14 भाग	0.0150
			12-15 भाग	0.0025
			12-20 भाग	0-0275
			11-1 भाग	0.0150
			11-2 भाग	0.0100
			11-3 भाग	0.0030
			10-2 भाग	0.0550
			106-1ए भाग	0.2750
			107 भाग	0.750
			सरकारी पोरमबोके	
				1.8139
			कुल योग	7.4982

[सं. एल-14014/6/98-जी.पी.]

आई. एम. एन. प्रसाद, उप सचिव

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 17th November, 1998

S.O. 2445 —Whereas, it appears to the Central Government that it is necessary in the public interest that for the transport of Liquid Petroleum Gas through Adivipalem to Tatipaka Gas Gathering Station Pipeline in Andhra Pradesh State, pipeline should be laid by the Gas Authority of India Limited;

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may within twenty one-days from the date on which the copies of this notification as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipelines under the land to the competent authority, Gas Authority of India Limited, K.G. Basin Project, Danvaipeta, Rajahmundry-533104 (Andhra Pradesh).

SCHEDULE

Distt.	Mandal	Village	Plot No.	Land to be acquired for ROU (In Hect.)
1	2	3	4	5
East Godavari	Malikipuram	Gudapali	132-12 part	0.0825
			132-13 „	0.1112
			132-14 „	0.0300
			133-8 „	0.0100
			133-9 „	0.0550
			133-10 „	0.0175
			136-1 „	0.0350
			136-2 „	0.0450
			136-4 „	0.2725
			138-5 „	0.0125
			138-6 „	0.0450
			138-25 „	0.0750
			138-10 „	0.0200
			138-11 „	0.0725
			138-12 „	0.0925
			138-24 „	0.0016
			139-10 „	0.0700
			139-13 „	0.1100
			120-3 „	0.1700
			119 „	0.3125
			118-2 „	0.0100
			118-3 „	0.0925
			118-4 „	0.0100
			118-6 Part	0.1650
			118-7 „	0.1866
			118-8 „	0.1025
			115 „	0.0100
			116-1 „	0.6050
			116-3 „	0.1250
			116-4 „	0.2550
			114 „	0.0350 Govt. Poramboke
			50-5 „	0.0250
			50-6 „	0.0700
			49-1B „	0.0700
			49-4 „	0.0737
			49-3 „	0.0075 Govt. Poramboke
			51-5 „	0.0250
			51-6 „	0.0005
			51-7 „	0.0300
			51-8 „	0.0450
			51-9 „	0.0025 Govt. Poramboka
			51-12 „	0.0200
			48-1A „	0.0400
			48-1B „	0.1175
			48-1C „	0.0100
			48-3 „	0.0525
			48-12 „	0.1550
			48-5 „	0.0275
			48-13 „	0.0675
			48-10 „	0.1050
			44 „	0.0225 Govt. Poramboke
			41-2 „	0.1575
			41-6 „	0.0600

1	2	3	4	5
Eas Godavari	Malikipuram	Gudapalli	27-1	0.1925
			26-4	0.4450
			26-2	0.0500
			26-3	0.1000
			25-2	0.0316
			31	0.3925
			30	0.0416 Govt. Poramboke
				5.6743
		Kesana palli	23-2 Part	0.0100
			23-3	0.1900 Govt. Poramboke
			23-4	0.2750
			5-6	0.0025
			5-7	0.0050
			5-8	0.0025
			20-1A	0.0150
			20-2A	0.0250
			20-3A	0.0300
			20-1B	0.0275 Govt. Poramboke
			19-1A	0.0500
			19-2A	0.0275
			19-3A	0.0150
			17-1A	0.0875
			17-2A	0.0300
			17-3A	0.0266
			17-4A	0.0300
			17-5A	0.0550
			17-5B	0.0050 Govt. Poramboke
			16-1	0.0162
			16-2 Part	0.0550
			16-3	0.0350
			16-11	0.0100
			16-12A	0.1450
			12-2A	0.0200
			12-4A	0.0200
			12-5A	0.0200
			12-6A	0.0300
			12-7A	0.0375
			12-8	0.0225
			12-9	0.0150
			12-10	0.0006
			12-14	0.0150
			12-15	0.0025
			12-20	0.0275
			11-1	0.0150
			11-2	0.0100
			11-3	0.0030
			10-2	0.0550
			106-1A	0.2750
			107	0.750 Govt. Poramboke
				1.8139
			G. TOTAL	7.4982

स्वास्थ्य और परिवार कल्याण मंत्रालय
(स्वास्थ्य विभाग)

आदेश

नई दिल्ली, 20 अक्टूबर, 1998

का.आ. 2446.—वैंडरबिल्ट यूनिवर्सिटी स्कूल आफ मेडिसिन, संयुक्त राज्य अमेरिका द्वारा प्रदत्त एम.डी., की चिकित्सीय अर्हता भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) के प्रयोजन के लिये एक मान्यताप्राप्त चिकित्सीय अर्हता है;

और डा. रिबाकाह ए. नयलर जिनके पास उक्त अर्हता है, इस समय पूर्व कार्य के लिये बंगलूर बेपटिस्ट अस्पताल, बंगलूर में संलग्न है;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 14 की उपधारा (1) के परन्तुक के खण्ड (ग) के अनुसरण में :—

- (1) 23 अक्टूबर, 1999 तक अवधि को या
- (2) उस अवधि को जिसके दौरान डा. रिबाकाह ए. नयलर बंगलूर बेपटिस्ट अस्पताल, बंगलूर में संबद्ध है, जो भी लघुतर हो, उस अवधि के रूप में निर्दिष्ट करती है जिस तक उक्त डाक्टर द्वारा चिकित्सा व्यवसाय करना परिसीमित रहेगा।

[संख्या पी. 11616/10/93-एमई(यूजी)]
एस.के. मिश्रा, डेस्क अधिकारी

MINISTRY OF HEALTH & FAMILY WELFARE
(Department of Health)

ORDER

New Delhi, the 20th October, 1998

S.O. 2446.—Whereas medical qualifications M.D. granted by Vanderbilt University School of Medicine, U.S.A. is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956);

And whereas Dr. Rabekah A. Naylor who possesses the said qualification is at present attached to Bangalore Baptist Hospital, Bangalore for charitable work;

Now, therefore, in pursuance of clause (c) of the said provision to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies :—

- (1) the period ending 23rd October, 1999 or
- (2) the period during which Dr. Rabekah A. Naylor is attached to Bangalore Baptist

Hospital, whichever is shorter, as the period to which the medical practice by the said doctor shall be limited.

[No. V. 11016/10/93-ME(UG)]

S. K. MISHRA, Desk Officer

नई दिल्ली, 23 अक्टूबर, 1998

का.आ. 2447.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्द्वारा भारतीय दंत चिकित्सा परिषद से परामर्श करने के पश्चात् उक्त अधिनियम की अनुसूची के भाग-1 में निम्नलिखित और संशोधन करती है नामतः

उक्त अनुसूची के भाग-1 में अमरावती विश्वविद्यालय अमरावती की क्रम संख्या 47 और उससे संबंधित प्रविष्टियों के बाद निम्नलिखित क्रम संख्या और प्रविष्टियां जोड़ी जायेंगी, नामतः :—

1	2	3
48 शिवाजी दंत शल्य विश्वविद्यालय चिकित्सा कोल्हापुर स्नातक	शिवाजी विश्वविद्यालय, कोल्हापुर की बी.डी.एस. डिग्री। वसंतदाता पाटिल डेंटल कालेज एवं अस्पताल, सांगली (महाराष्ट्र) के बी.डी.एस. छात्रों के संबंध में यह अर्हता तभी एक मान्यता प्राप्त अर्हता होगी जब यह 1-1-1994 को या उसके बाद प्रदान की गई हो।	

[सं. बी. 12018/7/95-पी.एम.एस.]

सी.एल. भाटिया, अवर सचिव

New Delhi the 23rd October, 1998

S.O. 2447.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consulting the Dental Council of India, hereby makes the following further amendment in Part I of the Schedule to the said Act, namely:—

In Part I of the said Schedule, after serial number 47 of Amravati University Amravati and the entries

relating thereto, the following serial number and entries shall be added, namely:—

1	2	3
48 Shivji University, Kolhapur.	Bachelor of Dental Surgery.	B.D.S. degree of Shivaji University, Kolhapur. This qualification shall be a recognised dental qualification in respect of BDS students of Vasant Dada Patil Dental College and Hospital Sangli (Maharashtra) when granted on or after 1-1-1994.

[No.V.12018/7/95-PMS]

C.L. BHATIA, Under Secy

नई दिल्ली, 23 अक्टूबर, 1998

का.आ. 2448.—केन्द्र सरकार भारतीय आयुर्विज्ञान परिषद अधिनियम 1956 (1956 का 102) की धारा 3 की उप-धारा (1) के खंड (क) के अनुसरण में तथा नागालैंड सरकार के परामर्श से डा. एस. इमकोंग तुशी एओ, सदस्य नागालैंड लोक सेवा आयोग को इस अधिसूचना के जारी होने की तारीख से भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में नामांकित किया गया है।

अतः अब, केन्द्र सरकार उक्त अधिनियम की धारा 3 की उप-धारा (1) के प्रावधानों के अनुसरण में भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की अधिसूचना का.आ. 138 दिनांक 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, नामतः—

“उक्त अधिसूचना में धारा 3 की उपधारा (1) के खंड (क) के अधीन निर्वाचित” शीर्षक के अन्तर्गत क्रम संख्या 17 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियां रखी जायेंगी, नामतः :—

“17. डा. एस. इमकोंग तुशी एओ,
सदस्य, नागालैंड लोक सेवा आयोग,
कोहिमा, नागालैंड”।

[सं. वी-11013/12/98-एमई (यूजी)]

एस.के. मिश्रा, डेस्क अधिकारी

पाठ टिप्पण :—मूल अधिसूचना दिनांक 9-1-1960 के का.आ. 138 के तहत प्रकाशित की गई थी।

New Delhi, the 23rd October, 1998

S.O. 2448.—Whereas the Central Government in pursuance of clause (a) of sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and in consultation with the Government of Nagaland have nominated Dr. S. Imkong Tushi AO, Member Nagaland Public Service Commission, Nagaland to be a member of Medical Council of India with effect from issue of this notification.

Now, therefore, in pursuance of provisions of sub-section (1) of Section 3 of the said Act, the Central Government, hereby makes the following further amendments in the notification of the Government of India in the then Ministry of Health number S.O. 138, dated the 9th January, 1960, namely :—

In the said notification, under the heading “nominated under clause (a) of sub-section (1) of Section 3 for serial number 17 and entries relating thereto the following serial number and entry shall be substituted, namely :—

“17. Dr. S. Imkong Tushi AO,
Member Nagaland Public Service
Commission, Kohima, Nagaland.”

[No. V-11013/12/98-ME(UG)]

S. K. MISHRA, Desk Officer

Footnote :—The principal notification was published vide S. O. No. 138, dated 9-1-1960.

नई दिल्ली, 30 अक्टूबर, 1998

का.आ. 2449.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 की धारा 3 की उपधारा (1) के खंड (ग) के अनुसरण में, केन्द्रीय सरकार ने भारतीय आयुर्विज्ञान परिषद के लिए एक सदस्य का चुनाव पंजीकृत चिकित्सा स्नातक निर्वाचन क्षेत्र वर्गद्वारा से कराया है जिसमें निर्वाचन अधिकारी ने भारतीय आयुर्विज्ञान परिषद के एक सदस्य के रूप में डा. वी.जी. बेनक्प्पा को 5 जुलाई, 1997 को निर्वाचित घोषित किया है।

अतः अब उक्त अधिनियम की धारा 3 की उपधारा (1) के अनुसरण में केन्द्रीय सरकार भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की दिनांक 9 जनवरी, 1960 की अधिसूचना संख्या का.आ. 138 में एतद्वारा निम्नलिखित और संशोधन करती है, अर्थात् :

“उक्त अधिसूचना में “धारा 3 की उप-धारा (1) के खंड (ग) के अन्तर्गत निर्वाचित” शीर्षक के अन्तर्गत क्रमांक 12 और उससे संबंधित प्रविष्टियों के स्थान पर

निम्नलिखित क्रमांक और प्रविष्टियाँ रखी जाएगी,
अर्थात् :—

- "12. डा. डी.जी. बेनकप्पा,
"निशा निकेतन"
संख्या 788, 34-ए, क्रॉस,
4था ब्लॉक, जय नगर,
बैंगलूर-560011"।

[संख्या बी-11013/16/95-एमई(यूजी)
एम.के. मिश्रा, डैस्क अधिकारी]

टिप्पण :—मुख्य अधिसूचना भारत के राजपत्र में दिनांक
9 जनवरी, 1960 की अधिसूचना संख्या
का.आ. 138 के तहत प्रकाशित की गई थी।

New Delhi, the 30th October, 1998

S.O. 2449.—Whereas in pursuance of clause (c) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956, the Central Government has conducted election of a member to the Medical Council of India from the Registered Medical Graduates constituency, Karnataka wherefrom Dr. D.G. Benkappa has been declared elected on the 5th day of July, 1997 by the Returning Officer to be a member of the Medical Council of India.

Now, therefore, in pursuance of sub-section (1) of section 3 of the said Act the Central Government hereby makes the following further amendments in the notification of Government of India in the then Ministry of Health number S. O. 138, dated the 9th January, 1960, namely :—

In the said notification under the heading "Elected under clause (c) of sub-section (1) of section 3," for the serial number 12 and the entries relating thereto, the following shall be substituted, namely :—

- "12. Dr. D. G. Benakappa.
"NISHA NIKETAN",
No. 788, 34-A, Cross,
4th Block, Jayanagar,
Bangalore-560011".

[No. V-11013/16/95-ME(UG)]
S. K. MISHRA, Desk Officer

Note :—The principal notification was published in the Gazette of India vide notification No. S.O. 138, dated the 9th January, 1960.

नई दिल्ली, 2 दिसम्बर, 1998

का.आ. 2450.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1936 का 102) की धारा 3 की उपधारा (1) के खण्ड (ग) के अन्वय में डा.टी.बी.

वासवराजेन्द्र, निदेशक, जे.एस.एम. मेडिकल कॉलेज, बन्नीमंताप एक्सटेंशन, मैसूर को मैसूर विश्वविद्यालय सभा द्वारा 28 सितम्बर, 1998 से 20 अगस्त, 1999 तक भारतीय आयुर्विज्ञान परिषद के एक सदस्य के रूप में निर्वाचित किया गया है।

अतः अब उक्त अधिनियम की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा नत्कालीन स्वास्थ्य मंत्रालय, भारत सरकार की अधिसूचना संख्या वा.आ. 138, दिनांक 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है; नामतः—

उक्त अधिसूचना में "धारा 3 की उपधारा (1) के खण्ड (ख) के अधीन निर्वाचित" शीर्षक के अधीन क्रम संख्या 20 और उसमें संकेत प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या आर प्रविष्टियाँ रखी जाएगी, नामतः—

"20 डा. टी.बी. वासवराजेन्द्र, मैसूर विश्वविद्यालय/निदेशक, जे.एस.एम. मेडिकल कॉलेज, बन्नीमंताप एक्सटेंशन मैसूर-570005"।

[संख्या बी-11013/16/98-एमई(यूजी)]
एस.के. मिश्रा, डैस्क अधिकारी

टिप्पण :—मुख्य अधिसूचना का आ. संख्या 138, दिनांक 9-1-1960 के द्वारा प्रकाशित की गई थी।

New Delhi, the 2nd November, 1998

S.O. 2450.—Whereas in pursuance of clause (b) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956), Dr. T. B. Basavarajendra, Director, J. S. S. Medical College, Bannimantap Extension, Mysore has been elected by the Court of University of Mysore to be a member of the Medical Council of India from 28th September, 1998 upto 20th August, 1999.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendments in the notification of Government of India in the then Ministry of Health number S.O. 138, dated the 9th January, 1960, namely :—

In the said notification, under the heading, "Elected under clause (b) of sub-section (1) of section 3," for serial number 20 and the entries

relating thereto, the following serial number and entries shall be substituted, namely :—

“20. Dr. T. B. Basavarajendra, University
Director, of Mysore”
J.S.S. Medical College,
Bannimantap Extension,
Mysore-570005.

[No. V-11013/15/98-ME(UG)]

S. K. MISHRA, Desk Officer

Note :—The principal notification was published vide S. O. No. 138, dated 9-1-1960.

शहरी कार्य और भोजनार मंत्रालय

(शहरी विकास विभाग)

(दिल्ली प्रभाग)

नई दिल्ली, 3 नवम्बर, 1998

का.आ. 2451.—यतः दिम्नांकित क्षेत्रों के बारे में कुछ संशोधन जिन्हें केन्द्रीय सरकार अधोषणित क्षेत्रों के बारे में दिल्ली बृहद योजना/क्षेत्रीय विकास योजना में प्रस्तावित करती है तथा जो दिल्ली विकास अधिनियम, 1956 (1957 का 61) की धारा 44 के प्रावधानों के अनुसार दिनांक 27-8-94 के नोटिस संख्या एफ 20 (14)/93 एम पी द्वारा प्रकाशित किये गये थे जिसमें उक्त अधिनियम की धारा 11-ए की उपधारा (3), में अपेक्षित आपत्तियाँ/सुझाव, उक्त नोटिस की तारीख के 30 दिन की अवधि में आमन्त्रित किये गये थे।

2. और यतः प्रस्तावित संशोधनों के बारे में जनता से कुछ आपत्तियाँ और सुझाव प्राप्त नहीं हुए हैं और यतः केन्द्र सरकार ने मामले के सभी पक्षों पर ध्यानपूर्वक विचार करने के बाद दिल्ली बृहद योजना में संशोधन करने का निर्णय लिया है।

3. अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 11-ए की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत के राजपत्र में इस अधिसूचना के प्रकाशन की तारीख में दिल्ली की उक्त बृहद योजना में एतद्वारा निम्नलिखित संशोधन करती है।

संशोधन : उप-जोन बी-13 (चाणख्य पुरी) में पड़ने वाले लगभग 6.00 हेक्टेयर (14.22 एकड़) क्षेत्र, जो उत्तर में 24 मीटर चौड़े मार्गाधिकार, दक्षिण में रेलवे क्षेत्र, पूर्व में चाणख्य पुरी सामुदायिक केन्द्र, (यशवंत प्लेस) तथा पश्चिम में 24 मीटर चौड़ी सड़क से घिरा है, का भू-उपयोग “मनोरंजनात्मक” से बदलकर “रिहायशी (राज्य अतिथिगृह) किया जाता है।

[सं. क्र. 13011/18/98-डी डी आई वी]

वी.के. मिश्रा, अधीन सचिव

MINISTRY OF URBAN AFFAIRS AND EMPLOYMENT

(Department of Urban Development)

(Delhi Division)

New Delhi, the 3rd November, 1998

S.O. 2451.—Whereas certain modifications which the Central Govt. propose to make in the Master Plan for Delhi/Zonal Development Plan regarding the area mentioned hereunder were published with notice No. F. 20(14)/93-MP dated 27-8-94 in accordance with the provisions of Section 44 of the Delhi Development Act, 1956 (61 of 1957), inviting objections/suggestions as required by sub-section (3) of Section 11-A of the said Act, within thirty days from the date of the said notice.

2. Whereas no objections/suggestions were received with regard to the proposed modification and whereas the Central Government have, after carefully considering all aspects of the matter decided to modify the Master Plan,

3. Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 11-A of the said Act, the Central Government hereby make the following modification in the said Master Plan for Delhi with effect from the date of publication of this Notification in the Gazette of India :

MODIFICATION :

“The land use of an area measuring about 6.00 ha (14.82 acres) falling in sub-zone D-13 (Chanakya Puri) and bounded by 24 metre wide R/W road in the North, Railway area in the South, Chanakya Puri Community Centre (Yashwant Place) in the East and 24 metres wide road in the West, is changed from ‘recreational use’ to ‘residential use’ (State Guest Houses).

[No. K-13011/18/98-DDIB]

V. K. MISRA, Under Secy.

शुद्धि पत्र

नई दिल्ली, 11 नवम्बर, 1998

विषय : टीकरी कलां, रोहतक रोड, नई दिल्ली में 101 हेक्टेयर, 250 एकड़ क्षेत्र के भू-उपयोग का कृषि ग्रामीण उपयोग और सेवा उद्योग (लाईट एण्ड सर्विस इन्डस्ट्री) (पीवीसी बाजार) में परिवर्तन।

का.आ. 2452.—अपर उल्लिखित विषय पर इस मंत्रालय की बिनांक 8-8-97 की समसंख्यक अधिसूचना के सन्दर्भ में “संशोधन” शीर्ष के अधीन निम्नलिखित को प्रतिस्थापित किया जाये :—

“शहरी विस्तार में पड़ने वाले 101 हेक्टेयर (250 एकड़) क्षेत्र, जो उत्तर, पूर्व और दक्षिण में

कृषि भूमि से श्रौर पश्चिम में विद्यमान टीकरी कलां-झड़ोदा कलां रोड से घिरा है, का भू-उपयोग "कृषि हरित/ग्रामीण उपयोग जोन" में प्रकाश श्रौर सेवा उद्योग (लाइट एण्ड सर्विस इन्डस्ट्री) (पीवीसी बाजार) में परिवर्तित कर दिया गया है"।

[सं. के-13011/34/95-डीडीआईबी]

पी.के. घोष, अवर सचिव

CORRIGENDUM

New Delhi, the 11th November, 1998

Subject : Change of land use of an area measuring 101 hac. (250 acres from Agricultural Rural Use Zone to 'Light and Service Industry' (PVC Bazar) at Tikri Kalan, Rohtak Road, New Delhi.

S.O. 2452.—With reference to this Ministry's notification of even number dated 8-8-1997 on the subject cited above under the head "Modification" the following may be substituted :

"The land use of an area measuring 101 hac. (250 acres falling in Urban Extension bounded by Agricultural land in the North, East and South and the existing Tikri Kalan, Jharoda Kalan Road in the West is changed from 'Agricultural green/rural use zone' to 'Light and service industry' (PVC Bazar)".

[No. K-13011/34/95-DDIB]

P. K. GHOSH, Under Secy.

डाक विभाग

(मुख्य पोस्टमास्टर जनरल कार्यालय, केरल परिमंडल)

त्रिवन्तपुरम, 16 नवम्बर, 1998

का.आ. 2453.—केन्द्रीय सरकार की राय में वेञ्जामूड डाकघर के लेखाधीन पिरप्पनकोड डाकघर के विभागेतर वितरण एजेंट सं. 1, श्री पी. मतीशन से संबंधित विभागीय जांच के गवाहों के रूप में निम्नलिखित को बुलाना आवश्यक है —

1. श्री बी. एम. दिनेश, दक्ष भवन, पालविला, पिरप्पनकोड, वेञ्जामूड पी.ओ.

2. श्रीमती डी. द्रौपदी अम्मा, रोसमंगलन्तु वीड, पिरप्पनकोड, वेञ्जामूड पी.ओ.

विभागीय जांच (गवाहों की उपस्थिति और दस्तावेजों की प्रस्तुति प्रवर्तन) अधिनियम, 1972 (1972 का 18वां) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रत्यायोजन करने हुए, केन्द्र सरकार अब इस वास्ते श्री डी.बी. तामस, सहायक अधीक्षक डाकघर, त्रिवन्तपुरम उत्तर उप मंडल, त्रिवन्तपुरम-695033 को डाक व तार विभागेतर एजेंटों (आचरण एवं सेवा) नियम 1964 के संबंध में उक्त अधिनियम की धारा 5 में विनिर्दिष्ट शक्तियों का प्रत्यायोजन करने जांच प्राधिकारी के रूप में एतद्वारा प्राधिकृत करती है।

[सं. विज/1-1/95]

मारियाम्मा तामस, सहायक पोस्ट-मास्टर जनरल (सर्तकता)

DEPARTMENT OF POSTS

(Office of the Chief Postmaster General, Kerala Circle)

Trivandrum, the 16th November, 1998

S.O. 2453. —Whereas the Central Government is of the opinion that, for the purpose of the departmental inquiry relating to Sri. P. Sathesnan, Extra Departmental Delivery agent No. 1, Pirappancode Post Office in account with Venjaramoodu P.O., it is necessary to summon as witnesses,

1. Sri. V. S. Dinesh, Dakshu Bhavan, Palavila, Pirappancode, Venjaramoodu P.O.

2. Smt. D. Drowpathi Amma, Rosamangalathu Veedu, Pirappancode, Venjaramoodu P.O.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act, 1972 (18 of 1972), the Central Government hereby authorises Sri. T. V. Thomas, Assistant Superintendent of Post Offices, Trivandrum North Sub-Division, Trivandrum 695 033 as the Inquiring Authority to exercise the power specified in section 5 of the said Act in relation to the P & T E.D. Agents (Conduct and Service) Rules, 1964.

[No. Vig./1-1/95]

MARIAMMA THOMAS, Assistant Postmaster General (Vigilance).

विद्युत मंत्रालय

नई दिल्ली, 11 नवम्बर, 1998

का.आ. 2454.—सार्वजनिक स्थान (अधिकाृत अधिभोगियों की वेदङ्गली), अधिनियम, 1971 (1971 का 40) की धारा 3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एन.डी.आर. श्री एस.के. सेठ, उप-प्रबंधक (विधि), जो राष्ट्रीय ताप विद्युत् निगम लिमिटेड के एक अधिकारी होने के नाते, एक सांविधिक अधिकारी तथा भारत सरकार के राजपति अधिकारी के समकक्ष हैं, को उक्त अधिनियम के प्रयोजनों के लिये सम्पदा अधिकारी नियुक्त करती हैं जो सार्वजनिक स्थानों की श्रेणियों के बारे में अपने अधिकार क्षेत्र की स्थानीय सीमाओं के भीतर उक्त अधिनियम के द्वारा अथवा उसके अन्तर्गत सम्पदा अधिकारी को प्रदत्त की गई शक्तियों का प्रयोग कर सकेगा और सम्पदा अधिकारी को सौंप गये कर्तव्यों का पालन करेगा तथा उक्त प्रयोजनों के लिये भारत सरकार के विद्युत मंत्रालय की दिनांक 8 जुलाई, 1993 के का.आ. 1590 की अधिसूचना को संशोधित करती है, तासनः—

उक्त अधिसूचना की तालिका में, कालम (1) में शब्द संख्या 6 के सामने कोष्ठक और शब्दों "श्री महिन्दर सिंह, उप-प्रबंधक (प्रशा.)" के स्थान पर शब्द "श्री एस.के. सेठ, उप-प्रबंधक (विधि)" रखे जायेंगे।

[फा.सं. 8/6/92-वमेल-I]
एन.सी. बाग, अवर सचिव

MINISTRY OF POWER

New Delhi, the 11th November, 1998

S.O. 2454.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints Shri S. K. Seth, Deputy Manager (Law) being an officer of the National Thermal Power Corporation Limited, a statutory authority and equivalent to the rank of gazetted officer of the Government of India, to be estate officer for the purposes of the said Act, who shall exercise the powers conferred, and perform the duties imposed on an estate officer by or under the said Act, within

the local limits of his jurisdiction in respect of the categories of public premises, and for the said purpose modifies the notification of the Government of India in the Ministry of Power number S.O. 1590 dated the 8th July, 1993, namely:—

In the table to the said notification, against serial No. 6, in column (1), for the words and brackets "Shri Mohinder Singh, Deputy Manager (Administration)" the words "Shri S. K. Seth, Deputy Manager (Law)" shall be substituted.

IF. No. 8/6/92-TH-II

N. C. BAG, Under Secy.

नई दिल्ली, 11 नवम्बर, 1998

का.आ. 2455.—केन्द्रीय सरकार, विद्युत (प्रवाह) अधिनियम, 1948 (1948 का 54) की धारा 29 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और भारत सरकार के विद्युत मंत्रालय की अधिसूचना न. का.आ. 751, तारीख 9 जनवरी, 1987 को अधिकाृत करने हुए:—

(i) किसी उत्पादन कंपनी द्वारा तापीय उत्पादन केन्द्र के लिए तैयार की गई स्कीम, जिसका मक्षम-सरकार या सरकारों द्वारा तथा का.आ. सं. 251(अ), तारीख 30 मार्च, 1992 द्वारा अधिसूचित और का.आ. सं. 410(अ), तारीख 23 मई, 1997 द्वारा संशोधित कारकों के अनुरूप प्रतियोगी बोली प्रक्रिया के माध्यम से चयन किया गया हो, पांच हजार करोड़ रुपये नियत करती है;

(ii) किसी उत्पादन कंपनी द्वारा अन्य तापीय उत्पादन केन्द्र के लिए तैयार की गई स्कीम जिसका मक्षम सरकार या सरकारों द्वारा प्रतियोगी बोली की प्रक्रिया के माध्यम से चयन किया गया हो, के संबंध में एक हजार करोड़ रुपये नियत करती है;

(iii) किसी उत्पादन कंपनी द्वारा जलीय विद्युत उत्पादन केन्द्र के लिए तैयार की गई स्कीम जिसका मक्षम सरकार या सरकारों द्वारा प्रतियोगी बोली

की प्रक्रिया के माध्यम से चयन किया गया हो, के संबंध में एक हजार करोड़ रुपए नियत करती है;

(iv) विद्यमान विद्युत उत्पादन केन्द्रों के नवीकरण और आधुनिकीकरण के लिए किसी स्कीम के संबंध में पांच सौ करोड़ रुपए नियत करती है; और

(v) सभी अन्य स्कीमों के संबंध में दो सौ पचास करोड़ रुपए नियत करती है;

पूजी व्यय की राशि इससे अधिक होती है तो स्कीम को प्राधिकरण के पास उसकी सहमति के लिए प्रस्तुत किया जाएगा।

2. अंतरराज्यीय नदियों के जल का उपयोग करने वाली सभी जलविद्युत स्कीमों को प्राधिकरण के पास उसकी सहमति के लिए प्रस्तुत किया जाएगा।

[फा.सं. ए.-85/97-आई.पॉ.सं-I]

राकेश कक्कर, संयुक्त सचिव

New Delhi, the 11th November, 1998

S.O. 2455.—In exercise of the powers conferred by sub-section (1) of section 29 of the Electricity (Supply) Act, 1948 (54 of 1948) and in supersession of the notification of the Government of India in the Ministry of Power number S.O. 751, dated the 9th January, 1997, the Central Government hereby fixes,—

(i) in relation to a scheme for thermal generating station prepared by a Generating Company selected through a process of competitive bidding by the competent Government or Governments and conforming to the factors notified vide number S. O. 251(E), dated the 30th March, 1992 as amended vide number S. O. 410(E), dated the 23rd May, 1997, rupees five thousand crores ;

(ii) in relation to a scheme for other thermal generating station prepared by a Generating Company selected through a process

of competitive bidding by the competent Government or Governments, rupees one thousand crores;

(iii) in relation to a scheme for hydro-electric generating station prepared by a Generating Company selected through a process of competitive bidding by the competent Government or Governments, rupees one thousand crores;

(iv) in relation to a scheme for renovation and modernisation of existing power generating stations, rupees five hundred crores; and

(v) in relation to all other schemes, rupees two hundred and fifty crores;

as the sum of capital expenditure exceeding which the scheme shall be submitted to the Authority for its concurrence.

2. All hydro-electric schemes utilising water of inter-state rivers shall be submitted to the Authority for its concurrence.

[F. No. A-85/97-IPC II]

RAKESH KACKER, Jt. Secy.

नई दिल्ली, 12 नवम्बर, 1998

क्रा.प्रा. 2456.—केंद्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिकारियों की देखरेख) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के विद्युत मंत्रालय की अधिसूचना सं. क्रा.प्रा. 1986, तारीख 10 जून, 1996 को अधिभ्रांत करते हुए, नीचे सारणी के स्तंभ (1) में उल्लिखित अधिकारियों को, जो केंद्रीय सरकार के राजपत्रित अधिकारी की पंक्ति के समतुल्य अधिकारी हैं, उक्त अधिनियम के प्रयोजनों के लिये सम्पदा अधिकारी नियुक्त करती है और उक्त अधिकारी उक्त अधिनियम के द्वारा या अधीन सम्पदा अधिकारियों को प्रदत्त शक्तियों का और उन पर अधिरोपित कर्तव्यों का, उक्त सारणी के स्तंभ (3) में की तत्स्थानी प्रविष्टि में निविष्ट सरकारी स्थानों की बाबत अपनी-अपनी

अधिकारिता की स्थानीय सीमाओं के भीतर प्रयोग और पालन करेंगे।

सारणी

अधिकारी का पदनाम सरकारी स्थानों के प्रबंध और अधिकारिता की स्थानीय सीमाएं

(1)	(2)
1. श्री जे. बी. सिंह, ज्येष्ठ इंजीनियर, टेहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड, भागीरथी भवन (टाप टेरेस), भागीरथीपुरम, टेहरी (गढ़वाल)—249001, उत्तर प्रदेश	न्यू टेहरी टाउन, ऋषिकेश, हरिद्वार, देहरादून स्थित टेहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड से संबंधित या उसके द्वारा या उसकी ओर से पट्टे पर लिये गये या अर्जित स्थान अथवा कोई अन्य स्थान जहां कारपोरेशन की संपत्ति है।
2. श्री ए. के. श्रीवास्तव, उप प्रबंधक (कार्मिक और प्रशासन), टेहरी हाइड्रो डेवलपमेंट कारपोरेशन, भागीरथी भवन (टाप-टेरेस), भागीरथीपुरम, टेहरी, (गढ़वाल)—249001, उत्तर प्रदेश।	पुराने टेहरी नगर, कोटी, भागीरथी पुरम और टेहरी में अन्य स्थान, न्यू टेहरी टाउन को छोड़कर टेहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड से संबंधित या उसकी ओर से पट्टे पर लिये गये या अर्जित स्थान।

[फा.सं. 19/13/96-हाइडिल.-II]

एम.एल. शर्मा, अवसर सचिव

New Delhi, the 12th November, 1998

S.O. 2456.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Power number S.O. 1986, dated the 10th June, 1996, the Central Government hereby appoints the officers mentioned in column (1) of the Table below, being officers equivalent to the rank of gazetted officer of the Central Government to be estate officers for the purposes of said Act, and the said officers shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under the said Act, within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
1. Shri J. B. Singh, Senior Engineer, Tehri Hydro Development Corporation Limited, Bhagirathi Bhawan,	Premises belonging to, or taken on lease, or requisitioned by, or on behalf of the Tehri Hydro Development

(1)

(Top Terrace), Bhagirathipuram Tehri (Garhwal)-249 001 Uttar Pradesh

(2)

Corporation Limited at New Tehri Town Rikikesh, Haridwar, Dehradun, or any other place where Corporation's properties exists.

2. Shri A. K. Srivastava, Deputy Manager (Personnel & Administration), Tehri Hydro Development Corporation Limited, Bhagirathi Bhawan (Top Terrace), Bhagirathipuram, Tehri (Garhwal)-249 001, Uttar Pradesh

Premises belonging to, or taken on lease, or requisitioned by, or on behalf of the Tehri Hydro Development Corporation Limited at Old Tehri Town, Koti, Bhagirathipuram and other places in Tehri, excluding New Tehri Town.

[F. No. 19/13/96-Hydel.II]

M. L. SHARMA, Under Secy.

खाद्य और उपभोक्ता मामले मंत्रालय

(खाद्य और नागरिक पूर्ति विभाग)

नई दिल्ली, 5 नवम्बर, 1998

का.भा. 2457.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, खाद्य और उपभोक्ता मामले मंत्रालय (खाद्य और नागरिक पूर्ति विभाग) के प्रशासनिक नियंत्रणाधीन बिहार राज्य में स्थित भारतीय खाद्य निगम के निम्नलिखित कार्यालयों, जिनके 80% से अधिक कर्मचारीबन्ध ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :-

1. जिला कार्यालय, गया
2. जिला कार्यालय, भागलपुर
3. जिला कार्यालय, पूर्णिया
4. जिला कार्यालय, सहरसा

[संख्या ई-11011/2/96-हिन्दी]

पूतम दत्त, निदेशक (संघ)

MINISTRY OF FOOD & CONSUMER AFFAIRS

(Department of Food & Civil Supplies)

New Delhi, the 5th November, 1998

S.O. 2457.—In pursuance of Sub-rule (4) of rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the following offices of Food Corporation of India, situated in Bihar State under the administrative control of the Ministry of Food & Consumer Affairs (Department of Food & Civil Supplies), whereof more than 80 per cent of staff have acquired the working knowledge of Hindi :—

1. District Office, Gaya
2. District Office, Bhagalpur
3. District Office, Purnia
4. District Office, Saharsa.

[No. E-11011/2/96-Hindi]
PUNAM DUTT, Director (Storage)

(उपभोक्ता मामले विभाग)

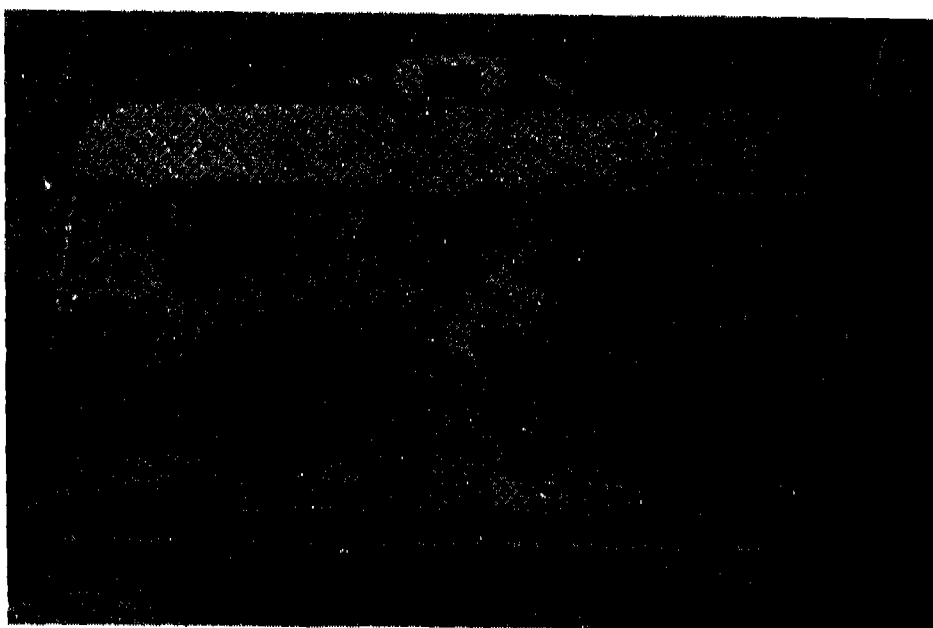
(बाट और माप यूनित)

नई दिल्ली, 16 नवम्बर, 1998

क्रा. आ. 2458.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और संभावना यह है कि अविरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा(7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए वर्ग (IV) (साधारण) यथार्थता वाली स्वतः सूचक, अस्वचालित यांत्रिक शिशु एवं बच्चा तोलन मशीन के माडल का जिसका ब्राण्ड नाम "गोल्ड" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मै. नूर सेल्स कारपोरेशन लि. ए/6, गोपालानन्द काम्पलेक्स, वी. एस. मार्ग, फातिमा नगर, वानोवरी, पुणे-411040 द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई. एन. डी./09/97/30 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल (आकृति में दिया गया है साधारण यथार्थता (यथार्थता वर्ग IV) शिशु एवं बच्चा तोलन यंत्र है, जिसकी अधिकतम क्षमता 25 कि. ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अन्तराल 100 ग्रा. है। मशीन कमानी भारण सिद्धांत पर कार्य करती है और इस पर तुलन परिणाम उपदर्शित करने के लिए सूचक सहित अनुरूप डायल लगा है। भारग्राही, समकोणीय अनुप्रस्थ काट का है जिसकी भुजाएं 490x220 मिलीमीटर है।



[फा. सं. डब्ल्यू एम 21(52)/97]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

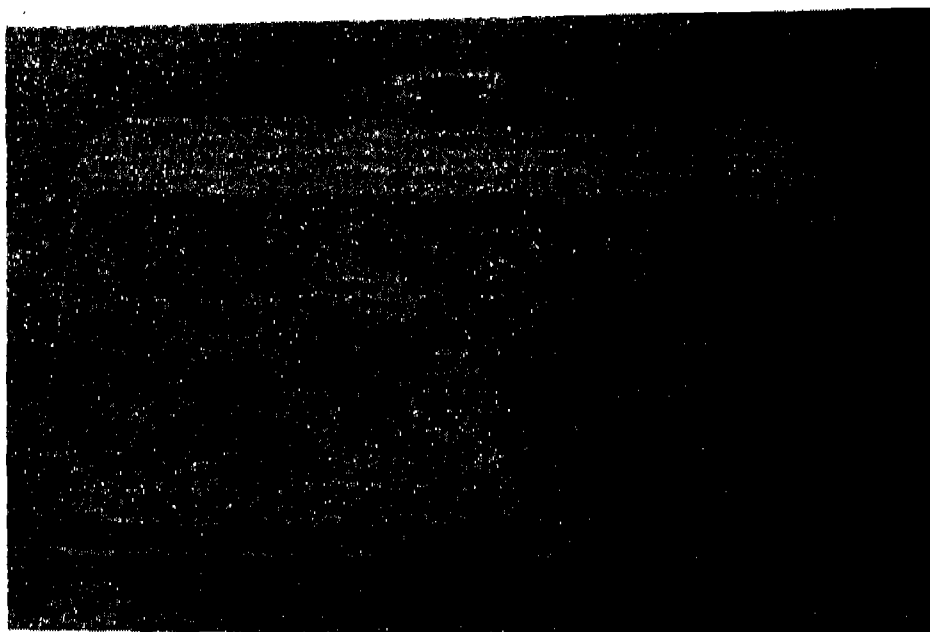
(Department of Consumer Affairs)**(Weights and Measure Unit)**

New Delhi, the 16th November, 1998

S.O. 2458.—Whereas the Central Government after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (the figure given below), is in conformity with the provisions of the Standard of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weight and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic mechanical baby cum child weighing machine of class IV (ordinary) accuracy with brand name "GOLD" (hereinafter referred to as the Model) manufactured by M/s. Noor Sales Corporation Ltd., A/6, Gopalanand Complex, V. S. Marg, Fatima Nagar, Wanori, Pune-411040, and which is assigned the approval mark IND/09/97/30 ;

The Model (given in the figure) is a ordinary accuracy (accuracy class IV) baby cum child weighing instrument with a maximum capacity of 25 kg and minimum capacity of 1 kg. The verification scale interval (e) is 100g. The machine works on the principles of spring loading and has an analog dial with a pointer to indicate the weighing results. The load receptor is of rectangular cross section of sides 490x220 millimeter.



[File No. WM 21(52)/97]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 16 नवम्बर, 1998

का. आ. 2459.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और संभावना यह है कि अविरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए "टट्सुनो सन्नी रेक्स" शृंखला के आंकिक प्रदर्शन वाले "वितरक पम्प" के माडल (जिसका इसके बाद माडल के रूप में उल्लेख किया गया है), जिसका विनिर्माण मै. टट्सुनो कार्पोरेशन, जापान द्वारा किया गया है और भारत में जिसकी बिक्री मै. मर्केन्टाइल एंड इंडस्ट्रियल डेवलपमेंट कार्पोरेशन, मुंबई द्वारा की जा रही है तथा जिसे अनुमोदित चिह्न आई. एन. डी./13/98/36 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है ।



उक्त माडल एफ एम-1007 का एक वितरक पम्प है और इसके अंशाकन चक्र में समायोजन के लिए पिस्टन टाइप धनात्मक विस्थापन मीटर लगा है । यह धन राशि और आयतन के लिए एक पहले से सेट की गई युक्ति है । इसका प्रदर्शन उत्तम है ।

[फा.सं. डब्ल्यू एम-21 (55)/98]

पी.ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th November, 1998

S. O. 2459.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standard of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of 'Dispensing pump' with digital display of 'Tatsuno Sunny Rex' series, (hereinafter referred to as the Model) manufactured by M/s. Tatsuno Corpn., Japan and sold in India by M/s. Mercantile and Industrial Development Corporation, Bombay, and which is assigned the approval mark IND/13/98/36;



The said Model is a dispensing pump with FM-1007, piston type positive displacement meter provided with calibration wheel for adjustment. It has preset device for money and volume. The display is of fluroscent type.

[File No. WM-21 (55)/98]

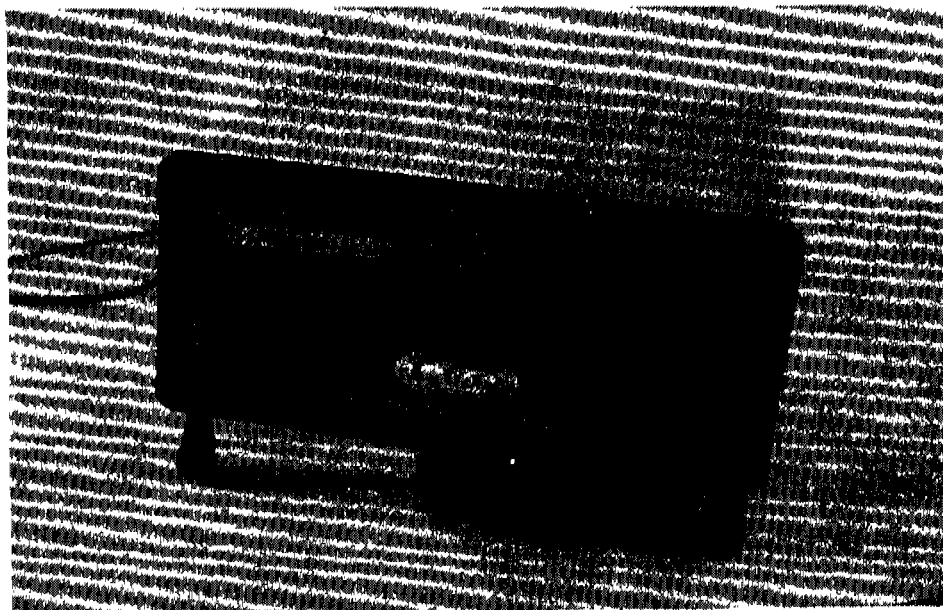
P.A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 18 नवम्बर, 1998

का. आ. 2460.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और संभावना यह है कि अविरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा :

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग III मध्यम यथार्थता (मध्यम यथार्थता) वाली "एफ. एस. डी.-501 श्रृंखला के स्वतःसूचक, अस्वचालित अंकक सूचना के साथ तोलन यंत्र (तुला चौकी) के माडल का जिसका ब्रांड नाम "लियो" है। (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैसर्स लियोट्रानिक स्केल्स प्रा. लि. 155, फोकल पाइंट, अमृतसर, द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई. एन. डी. 09/98/25 समनुदेशित किया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है।

यह माडल (आकृति देखें) मध्य यथार्थता (यथार्थता वर्ग III) तोलन यंत्र है, जिसकी अधिकतम क्षमता 5000 कि. ग्रा और न्यूनतम क्षमता 20 कि. ग्रा. है। सत्यापन माप क्रम अन्तराल 1 कि. ग्रा. है। इसमें एक आधेय तुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आधेय प्रभाव है भारग्राही आयातकार है जिसकी भुजाएं 4800 x 2400 मिलीमीटर हैं। प्रकाश उत्सर्जन डायोड प्रदर्शन तुलन परिणाम उपदर्शित करता है। यंत्र 230 वोल्ट और 50 हर्टज आवृत्ति पर प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



इसके अतिरिक्त केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषित करती है कि उक्त माडल के अनुमोदन प्रमाणपत्र के अंतर्गत समान श्रृंखला के तोलन यंत्र भी हैं, जिसके अधिकतम सत्यापन आन्तरिक मापक्रम 10,000 या 10,000 से कम या (एन \leq 10,000) और जिसका "ई" मूल्य 1, 2, 5 श्रृंखला का है और जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और सामग्री से किया गया है, जिससे अनुमोदित माडल विनिर्मित है।

[फा. सं. डब्ल्यू एम 21(34)/95]

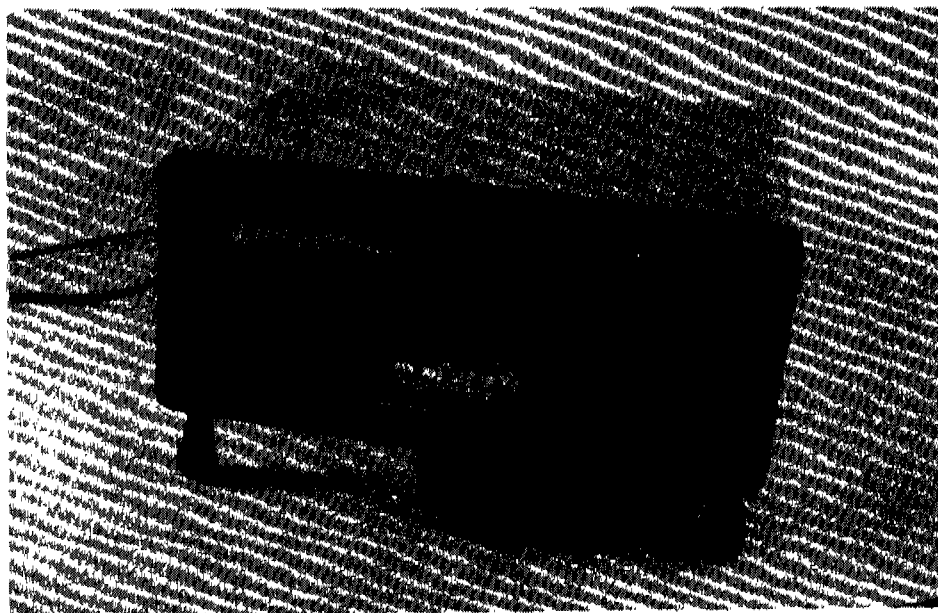
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th November, 1998

S.O. 2460.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic weighing instrument with digital indication (weighbridge) of type "FSD-501" series of Medium accuracy class III (medium) accuracy with brand name "LEO" (hereinafter referred to as the Model) manufactured by M/s Leotronic Scales Pvt. Ltd., 155, Focal Point, Amritsar and which is assigned the approval mark IND/09/98/25 ;

The said Model (see figure) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 5000 kg and minimum capacity of 20 kg. The verification scale interval (e) is 1 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of sides 4800 x 2400 millimetre. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts, 50 Hertz, alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of the Said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value of 1, 2, 5 series, manufacture by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21(34)/95]

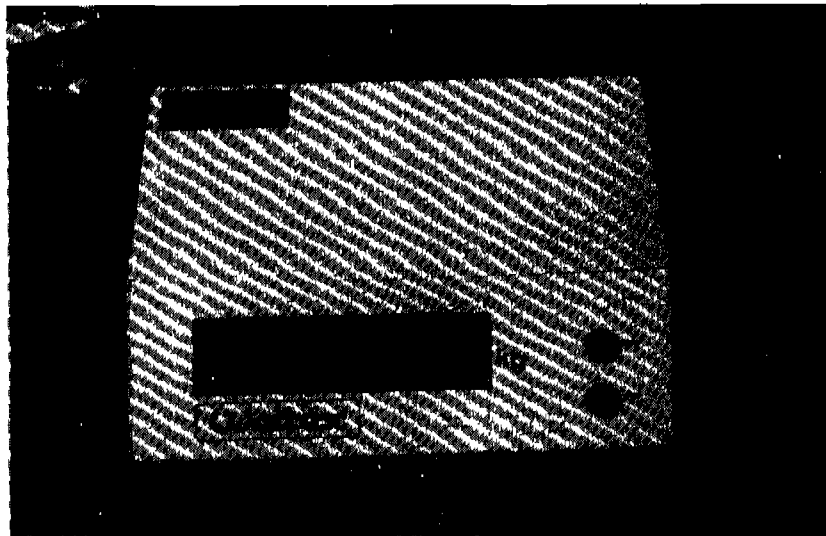
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 18 नवम्बर, 1998

का. आ. 2461.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और संभावना यह है कि अविरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा :

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग III यथार्थता (मध्यम यथार्थता) वाली "एस. एल.-92 एस" श्रृंखला के स्वतः सूचक, रूपांतरण प्रकार की, अस्वचालित इलेक्ट्रॉनिक प्लेटफार्म तोलन यंत्र के माडल का जिसका ब्रांड का नाम "वेटेक्स" है। (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैसर्स वेटेक्स इण्डिया लि., 1-3-176/35/22/26, भाग्य लक्ष्मी नगर, कावडिगुडा, हैदराबाद-500080 द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई. एन. डी. 09/98/47 समनुदेशित किया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है।

यह माडल (आकृति देखें) मध्यम यथार्थता (यथार्थता वर्ग III) तोलन यंत्र है, जिसकी अधिकतम क्षमता 300 कि. ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापक्रम अंतराल 50 ग्राम है। इसमें एक आधेय तुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आधेय तुलन प्रभाव है। भारग्राही वर्गाकार है जिसकी भुजाएं 635×560 मिलीमीटर है। प्रकाश उत्सर्जन डायोड प्रदर्शन तुलन परिणाम उपदर्शित करता है। यंत्र 230 वोल्ट और 50 हर्टज आवृत्ति पर प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



इसके अतिरिक्त केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषित करती है कि उक्त माडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत समान श्रृंखला के तोलन यंत्र भी है, जिनके अधिकतम सत्यापन आन्तरिक मापक्रम 10,000 से कम ($\leq 10,000$) है और जिसका "ई" मूल्य 1, 2, 5 श्रृंखला का है जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और सामग्री से किया गया हो, जिससे अनुमोदित माडल विनिर्मित है।

[फा. सं. डब्ल्यू एम 21(50)/96]

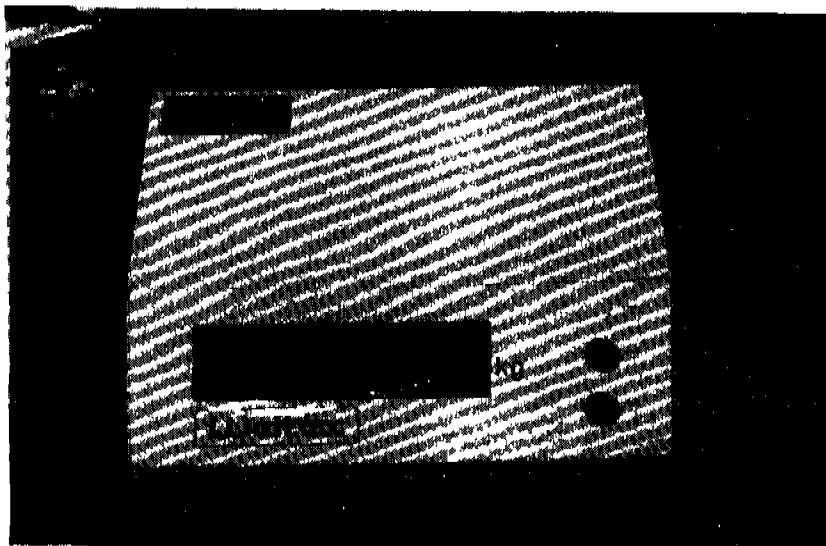
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th November, 1998

S.O. 2461.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the standards of Weights and Measures (approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating conversion type non-automatic, electronic table top weighing machine of type "SL-92S" series of class III accuracy (Medium accuracy) and with brand name "WEITEX" (hereinafter referred to as the Model) manufactured by M/s Weitex India Ltd., 1-3-176/35/22/26 Bhagya Laxmi Nagar, Kavadiiguda, Hyderabad-500080, and which is assigned the approval mark IND/09/98/47 ;

The Model (see figure) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 300 kg and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of square section of side 635 × 560 millimetre. The LED display indicates the weighing result. The instrument operates on 230 volts, and 50 Hertz, alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with maximum number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value of 1, 2, 5 series, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21(50)/96]

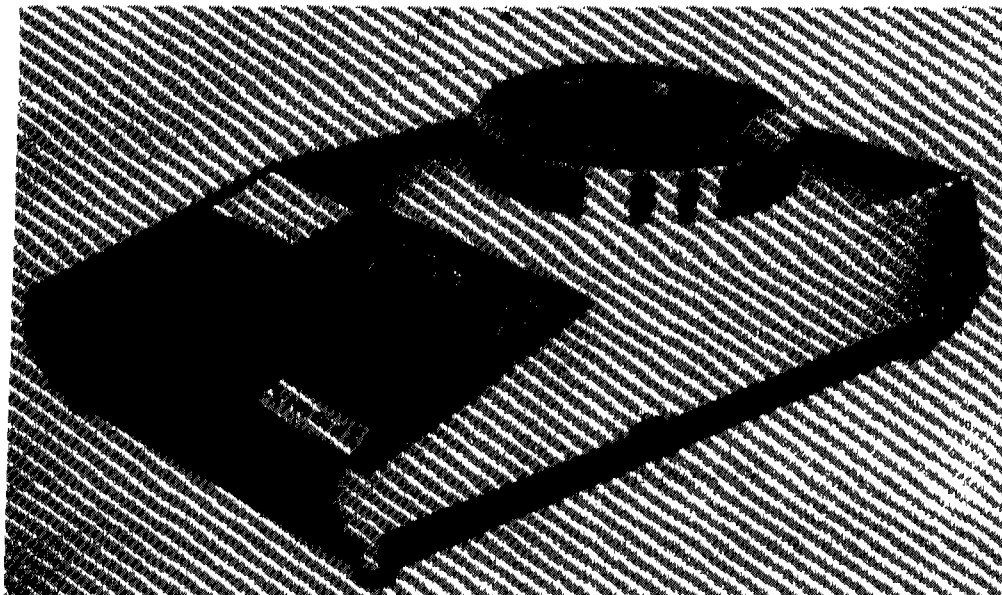
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 नवम्बर, 1998

का. आ. 2462.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और संभावना यह है कि अविरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए वर्ग II यथार्थता उच्च यथार्थता वाली स्मार्ट श्रृंखला की स्वतः सूचक, अस्वचालित, इलेक्ट्रॉनिक मेजतल तोलन यंत्र के माडल का जिसका ब्राण्ड का नाम "स्मार्ट" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मै. सिस्ट्रान, माइक्रो सिस्टम, बी-जी, बालाजी एवेन्यू जजेज बंगलो रोड, वस्तारपुर, अहमदाबाद-382015 द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई. एन. डी./09/98/46 समनुदेशित किया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है;

यह माडल (आकृति देखें) उच्च यथार्थता (यथार्थता वर्ग III) तोलन यंत्र है, जिसकी अधिकतम क्षमता 10 कि. ग्रा. और न्यूनतम क्षमता 50. ग्रा. है। सत्यापन माप क्रम अन्तराल 1 ग्रा. है। इसमें एक अधेय तुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आधेय तुलन प्रभाव है। भारग्राही वर्गाकार है जिसकी भुजाएं 225×250 मिलीमीटर हैं। प्रकाश उत्सर्जन डायोड प्रदर्शन तुलन परिणाम उपदर्शित करता है। यंत्र 230 वोल्ट और 50 हर्टज आवृत्ति पर प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



इसके अतिरिक्त केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषित करती है उक्त माडल के अनुमोदन प्रमाणपत्र के अन्तर्गत समान श्रृंखला के तोलन यंत्र भी हैं, जिसके अधिकतम सत्यापन आन्तरिक मापक्रम (एन) 1,00,000 से कम या (एन<1,00,000) समतुल्य है इसका "ई" मूल्य 1, 2, 5 श्रृंखला और जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन और सामग्री से किया गया है, जिससे अनुमोदित माडल विभिन्नित है।

[फा. सं. डब्ल्यू एम-21(16)/96]

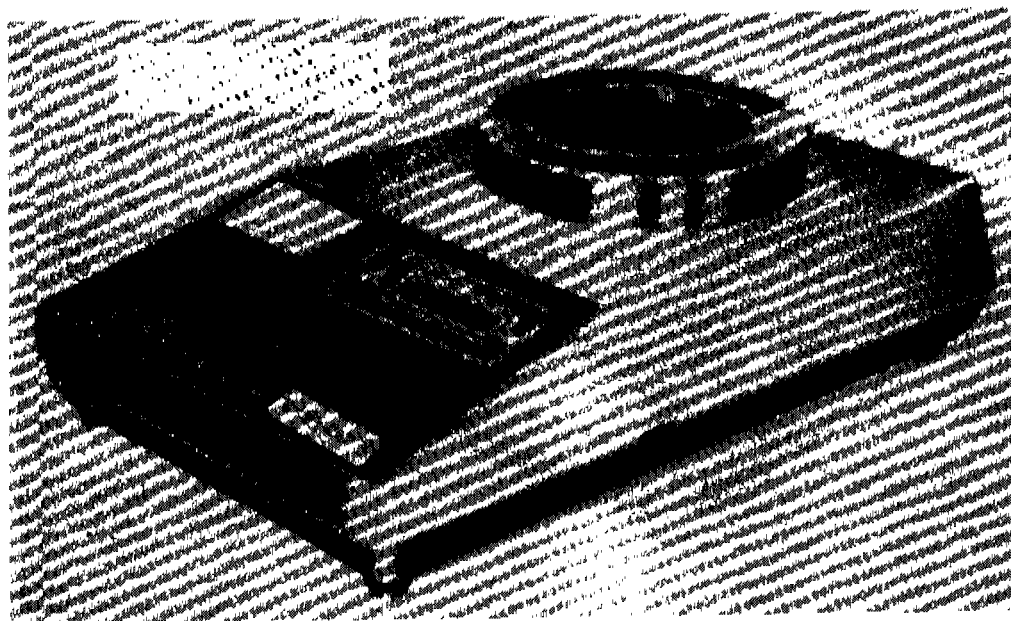
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th November, 1998

S. O. 2462.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the standards of Weight and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic electronic table top weighing machine of type SMART series of class II accuracy (High accuracy) and with brand name SMART (hereinafter referred to as the Model) manufactured by M/s. Systron Microsystems, B-g, Balaji Avenue, Judges Bungalows, Road, Vastrapur, Ahmedabad-382015, and which is assigned the approval mark ND/09/98/46 ;

The Model (see figure) is medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 10 kg. and minimum capacity of 50 g. The verification scale interval (e) is 1g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of square section of side 225×250 millimeter. The LED display indicates the weighing result. The instrument operates on 230 volts and 50 Hertz alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with the maximum number of verification scale interval (n) less than or equal to 1,00,000 ($e \leq 1,00,000$) and with 'e' value to 1, 2, 5 series manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21(16)/96]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 नवम्बर, 1998

का. आ. 2463.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और संभावना यह है कि अविरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए वर्ग (III) यथार्थता (मध्यम यथार्थता) वाली स्मार्ट श्रृंखला की स्वतः सूचक, अस्वचालित इलेक्ट्रानिक प्लेटफार्म प्रकार का तोलन यंत्र के माडल का जिसका ब्राण्ड नाम "स्मार्ट" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मै. सिस्ट्रान, माइक्रो सिस्टम, बी-जी, बालाजी एवेन्यू जजेज बंगलो रोड, वस्त्रापुर, अहमदाबाद-382015 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई. एन. डी./09/98/45 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल (आकृति देखें) मध्यम यथार्थता (यथार्थता वर्ग III) तोलन यंत्र है, जिसकी अधिकतम क्षमता 100 कि. ग्रा. और न्यूनतम क्षमता 400 ग्राम है। सत्यापन माप क्रम अन्तराल 20 ग्रा. है। इसमें एक अर्धेय तुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आर्धेय तुलन प्रभाव है। भारतग्राही वर्गाकार भाग है जिसकी भुजाएं 600×300 मिलीमीटर है। प्रकाश उत्सर्जन डायोड प्रदर्शन तुलन परिणाम उपदर्शित करता है। यंत्र 230 वोल्ट और 50 हर्टज आवृत्ति पर प्रत्यावर्ती धारा विद्युत प्रदाय पर करता है।



इसके अतिरिक्त केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषित करती है कि उक्त माडल के अनुमोदन प्रमाणपत्र के अन्तर्गत समान श्रृंखला के तोलन यंत्र भी है, जिसके अधिकतम सत्यापन आन्तरिक मापक्रम (एन) 10,000 से कम या (एन ≤ 10,000) समतुल्य है और इसका 'ई' मूल्य 1, 2, 5 श्रृंखला का है और जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और सामग्री से किया गया है, जिससे अनुमोदित माडल विनिर्मित है।

[फा. सं. डब्ल्यू एम-21 (16)/96]

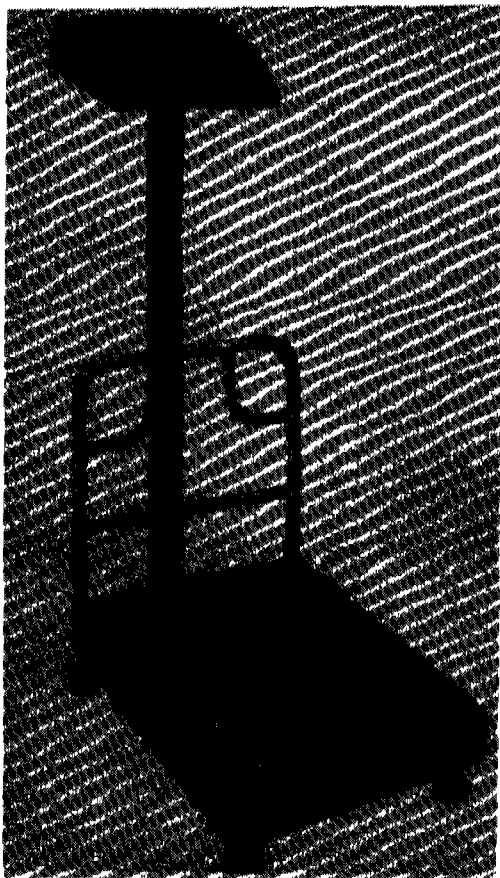
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th November, 1998

S. O. 2463.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the standards of Weights and Measures (approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic electronic platform weighing machine of type SMART series of class III accuracy (Medium accuracy) and with brand name SMART (hereinafter referred to as the Model) manufactured by M/s Systron Microsystems, B-g, Balaji Avenue, Judges Bungalows, Road, Vastapur, Ahmedabad-382015, and which is un-signed the approval mark ND/09/98/45 ;

The Model (see figure) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 100 kg. and minimum capacity of 400 g. The verification scale interval (e) is 20g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of square section of side 600×300 millimeter. The LED display indicates the weighing result. The instrument operates on 230 volts and 50 Hertz alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with the maximum number of verification scale interval (n) less than or equal to 10,000 ($e \leq 10,000$) and with 'e' value to 1, 2, 5 series manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21(16)/96]

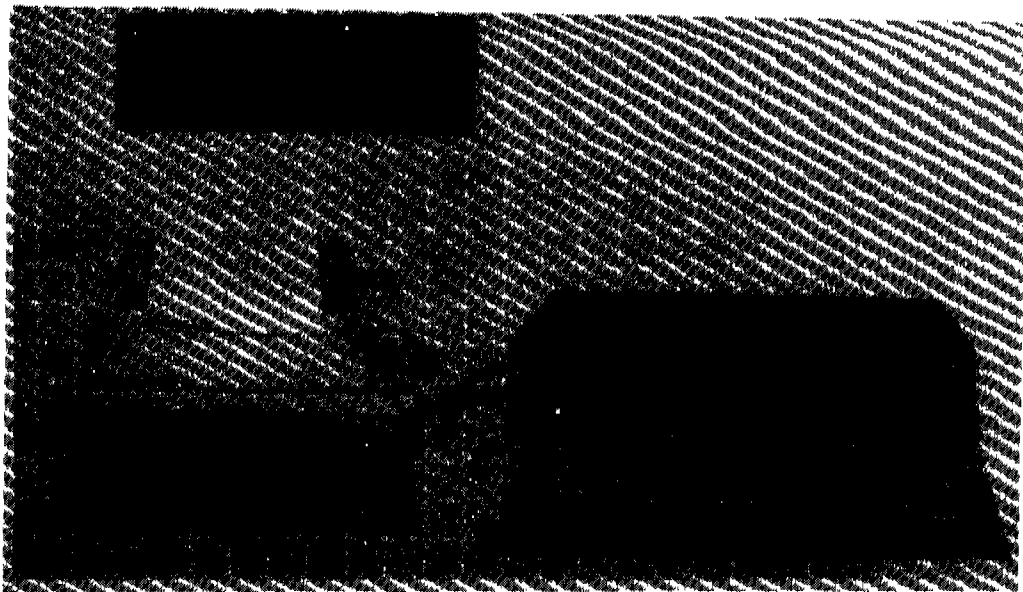
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 नवम्बर, 1998

का. आ. 2464.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और संभावना यह है कि अवरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा(7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए वर्ग (III) यथार्थता (मध्यम यथार्थता) वाली स्मार्ट श्रृंखला की स्वतः सूचक, अस्वचालित इलेक्ट्रॉनिक, यांत्रिक संपरिवर्तन को सामान के साथ तुला चौकी के माडल का जिसका ब्रांड का नाम "स्मार्ट" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मै. सिस्ट्रान, माइक्रो सिस्टम, बी-जी, बालाजी एवेन्यू, जजेज बंगलो रोड, वस्तरापुर, अहमदाबाद-382015 द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई. एन. डी./09/98/44 समनुदेशित किया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है;

यह माडल (आकृति देखें) मध्यम यथार्थता (यथार्थता वर्ग III) तोलन यंत्र है, जिसकी अधिकतम क्षमता 30000 कि. ग्रा. और न्यूनतम क्षमता 100 किलोग्राम है। सत्यापन माप क्रम अन्तराल 5 कि.ग्रा. है। इसमें एक आधेय तुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आधेय तुलन प्रभाव है। भारग्राही वर्गाकार है जिसकी भुजाएं 6×3 मीटर है। प्रकाश उत्सर्जन डायोड प्रदर्शन तुलन परिणाम सूचित करता है। यंत्र 230 वोल्ट और 50 हर्ट्ज आवृत्ति पर प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



इसके अतिरिक्त केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषित करती है उक्त माडल के अनुमोदन प्रमाणपत्र के अन्तर्गत समान श्रृंखला के तोलन यंत्र भी है, जिसके अधिकतम सत्यापन आन्तरिक मापक्रम (एन) 10,000 से कम या (एन≤10,000) समतुल्य है इसका "इ" मूल्य 1, 2, 5 श्रृंखला और जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन और सामग्री से किया गया है, जिससे अनुमोदित माडल विनिर्मित है।

[फा. सं. डब्ल्यू एम-21(16)/96]

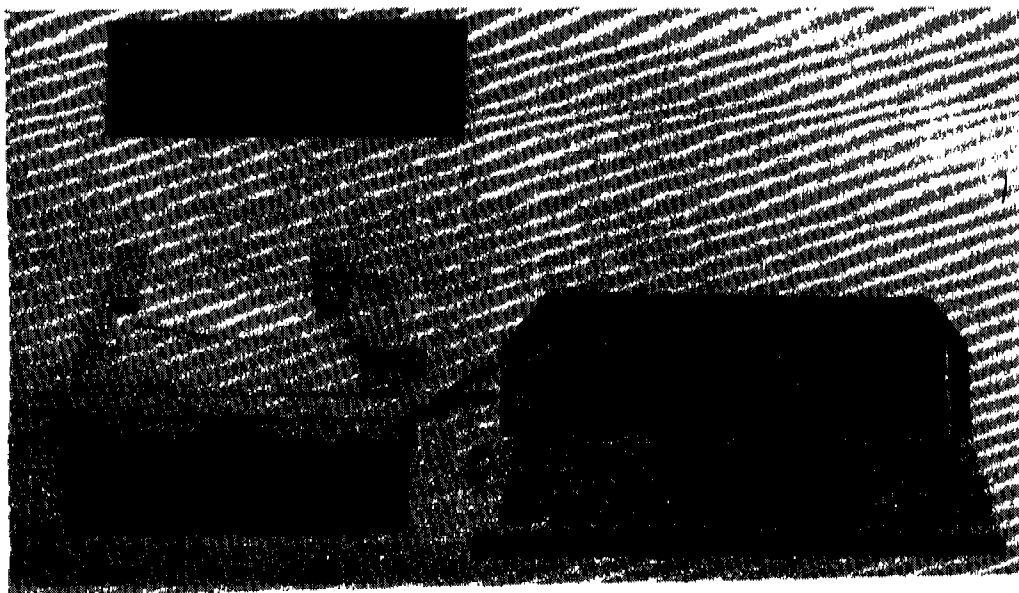
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th November, 1998

S. O. 2464.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (See the figure given below, is in conformity with the provisions of the Standard of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic, electronic kit for conversion of mechanical weigh bridge weighing machine of type SMART series of class III accuracy (Medium accuracy) and with brand name SMART (hereinafter referred to as the model) manufactured by M/s. Systron Microsystems, B-g, Balaji Avenue, Judges Bungalows Road, Vastrapur, Ahmedabad-382015, and which is unsigned the approval mark ND/09/98/44;

The Model (see figure) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 30000 kg and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of square section of side 6×3 meter. The LED display indicates the weighing result. The instrument operates on 230 volts and 50 Hertz alternate current power supply;



Further, in exercises of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with the maximum numbers of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with Value to 1, 2, 5 series manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21(16)/96]

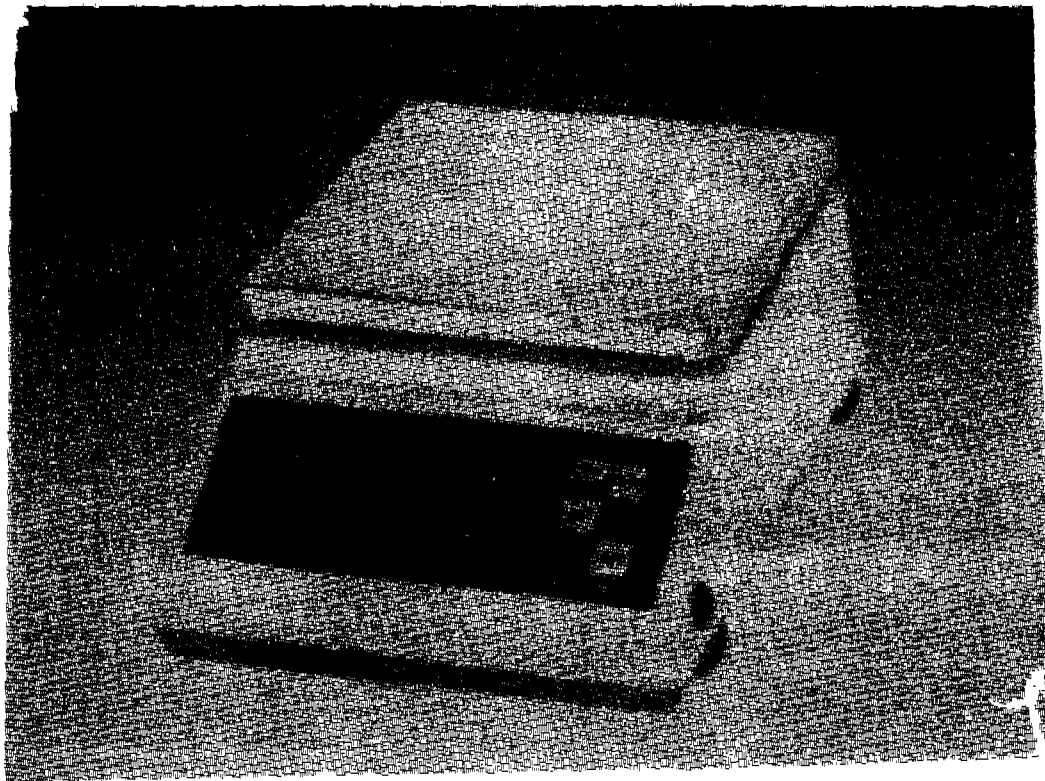
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 नवम्बर, 1998

का. आ. 2465.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखिए) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए “पी टी” सिरीज के वर्ग 2 की यथार्थता (उच्च यथार्थता) और “प्रोमिस” के ब्रांड नाम के टाईप के स्वतः सूचक गैर-स्वचालित तोलन उपकरण के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स प्रोमिस इंडस्ट्रीज (पी) लिमिटेड, 107/1, पार्क स्ट्रीट, कलकत्ता-700016 द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई. एन. डी./09/98/13 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है;

माडल (आकृति देखिए) उस उच्च यथार्थता (यथार्थता वर्ग 3) का तोलन उपकरण है, जिसकी अधिकतम क्षमता 6 किलोग्राम और न्यूनतम क्षमता 25 ग्राम है। सत्यापन मापमान अन्तर 0.5 (ई) ग्राम है। इसमें एक टेयर युक्ति है जिसका व्यकलनात्मक प्रतिधाग्न टेयर प्रभाव 100 प्रतिशत है। आधार और प्लेटफार्म मुदु इस्पात के हैं। भारग्राही वर्गाकार आकृति का है जिसका पार्श्व 195 मि.मी. है। प्रकाश उत्सर्जन हायोड संप्रदर्श तोल परिणाम उपदर्शित करता है। यह उपकरण 230 वाल्ट, 50 हर्ट्ज के प्रत्यावर्ती धारा विद्युत प्रदाय पर प्रचालित होता है।



आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण-पत्र के अन्तर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित समरूप मेक, यथार्थता और उसी सिरीज के कार्यकरण वाले तोलन उपकरण भी हैं जिनके सत्यापन मापमान अन्तर की अधिकतम संख्या (एन) 100000 से कम अथवा समतुल्य है (एन ≤ 100000) साथ ही (ई) मूल्य 1, 2 या 5 सिरीज का है।

[फा. सं. डब्ल्यू एम-21/75/96]

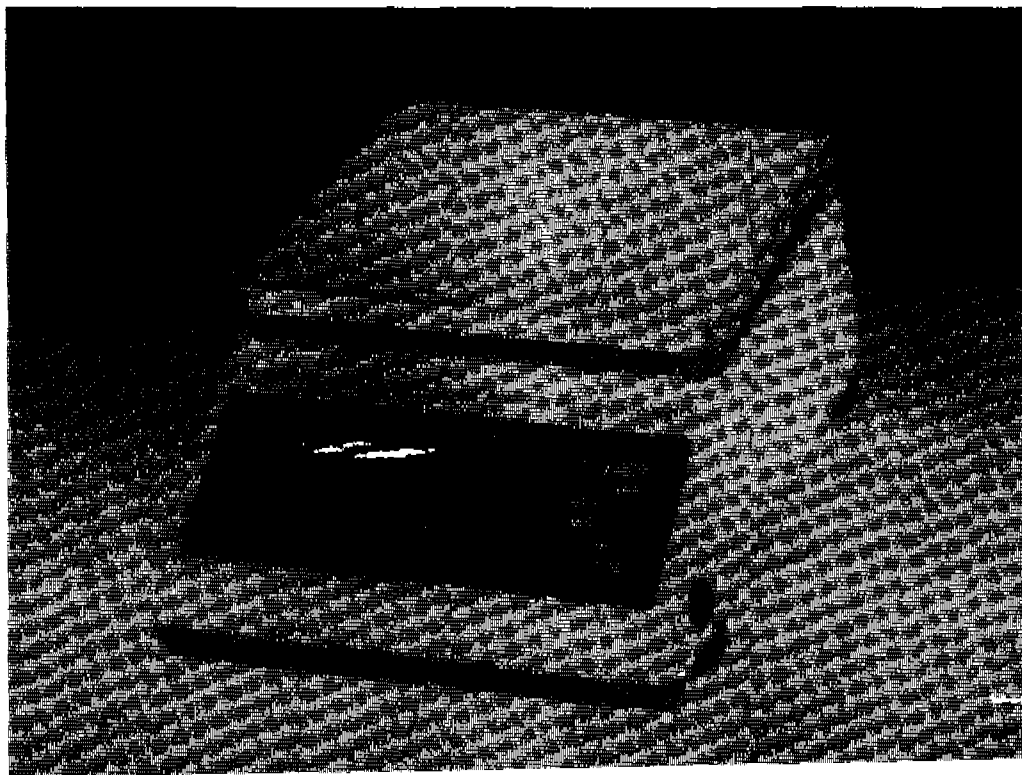
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th November, 1998

S. O. 2465.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain the accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic, electronic table top weighing machine of type "PT" series of class II accuracy (high accuracy) and with brand name "PROMISE" (hereinafter referred to as the Model) manufactured by M/s. Promise Industries (P) Ltd., 107/1, Park Street, Calcutta-700016, and which is assigned the approval mark IND/09/98/13 ;

The said Model (see figure) is a high accuracy (accuracy class II) weighing instrument with a maximum capacity of 6 kg and minimum capacity of 25 g. The verification scale interval (e) is 0.5g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of square section of side 195 millimeter. The light emitting diode/Fluorescent display indicates the weighing result. The instrument operates on 230 volts and frequency 50 hertz alternate current power supply.



Further, in exercises of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale intervals (n) less than or equal to 100,000 ($n \leq 100,000$) and with the 'e' value of 1, 2 or 5 series, manufactured by the same manufacturer in accordance with the same principal, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21/75/96]

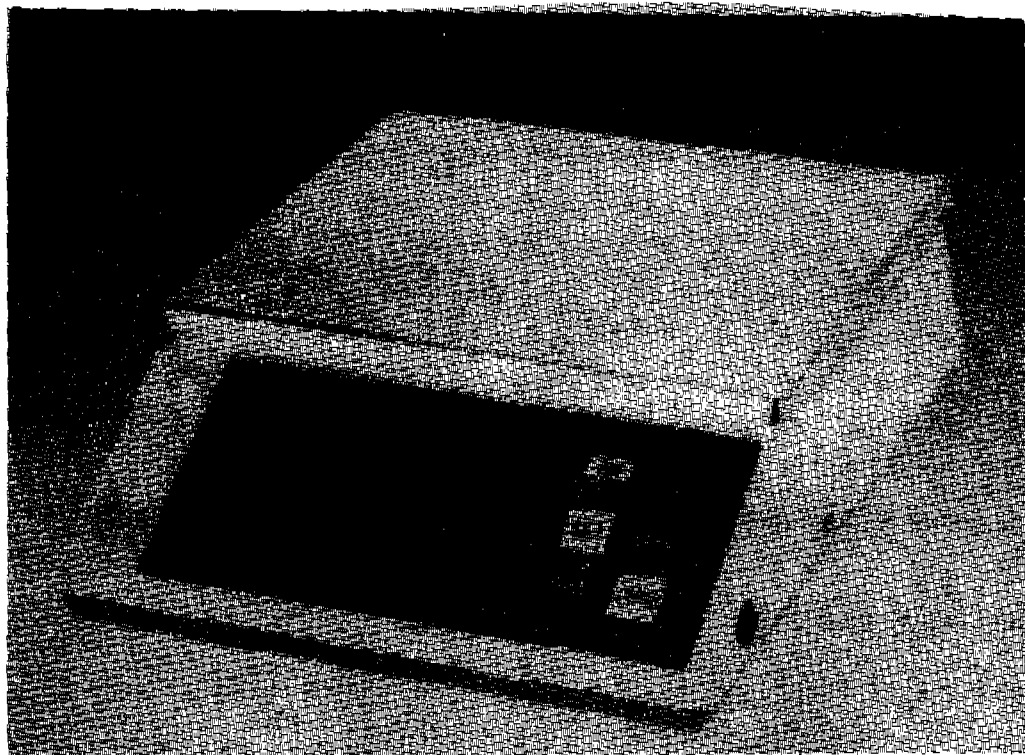
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 नवम्बर, 1998

का. आ. 2466.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखिए) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए “पी टी” सिरीज के वर्ग 3 की यथार्थता (यथार्थता) और “प्रोमिस” के ब्रान्ड नाम के टाईप के स्वतः सूचक गैर-स्वचालित तोलन उपकरण के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स प्रोमिस इंडस्ट्रीज (पी) लिमिटेड, 107/1, पार्क स्ट्रीट, कलकत्ता-700016 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई. एन. डी./09/98/14 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है।

माडल (आकृति देखिए) उस मध्यम यथार्थता (यथार्थता वर्ग 3) का तोलन उपकरण है जिसकी अधिकतम क्षमता 6 किलोग्राम और न्यूनतम क्षमता 20 ग्राम है। सत्यापन मापमान अन्तर 1 (ई) ग्राम है। इसमें एक टेयर युक्ति है जिसका व्यकलनात्मक प्रतिधारण टेयर प्रभाव 100 प्रतिशत है। आधार और प्लेटफार्म मृदु इस्पात के हैं। भारग्राही वर्गाकार आकृति का है जिसका पार्श्व 195 मि.मी. है। प्रकाश उत्सर्जन हायोड संप्रदर्श तोल परिणाम उपदर्शित करता है। यह उपकरण 230 वाल्ट, 50 हर्टज के प्रत्यावर्ती धारा विद्युत प्रदाय पर प्रचालित होता है।



आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषित करती है कि माडल के अनुमोदन के इस प्रमाण-पत्र के अन्तर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित समरूप मेक, यथार्थता और उसी सिरीज के कार्यकरण वाले तोलन उपकरण भी हैं जिनके सत्यापन मापमान अन्तर की अधिकतम संख्या (एन) 10000 से कम अथवा समतुल्य है (एन) ≤ 10000 (साथ ही “ई” मूल्य 1, 2 या 5 सिरीज का है)।

[फा. सं. डब्ल्यू एम-21 (75)/96]

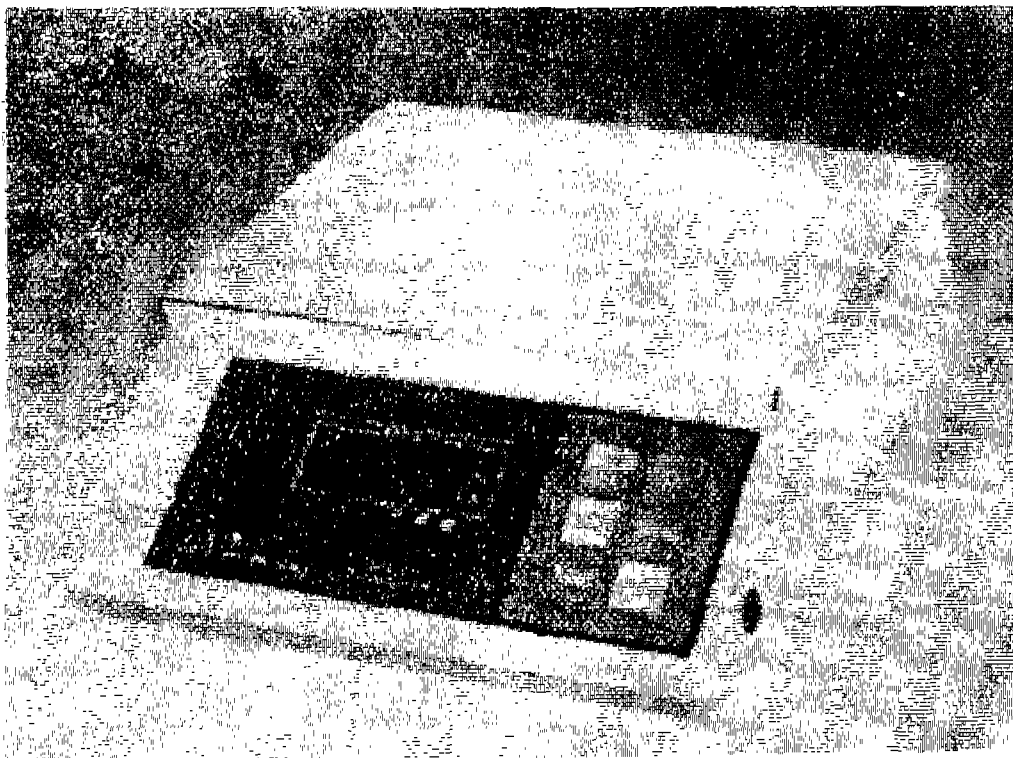
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th November, 1998

S.O. 2466.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic, electronic table top weighing machine of type "PT" series of class III accuracy (medium accuracy) and with brand name "PROMISE" (hereinafter referred to as the Model) manufactured by M/s Promise Industries (P) Ltd. 107/1, Park Street, Calcutta-700016, and which is assigned the approval mark IND/09/98/14 ;

The said Model is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 6kg and minimum capacity of 20g. The verification scale interval (e) is 1g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of square section of side 195 millimeter. The light emitting diode/Fluorescent display indicates the weighing result. The instrument operates on 230 volts and frequency 50 hertz alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar mark, accuracy and performance of same series with maximum number of verification scale intervals (n) less than or equal to 10,000 ($n \leq 10,000$) and with ' e ' value of 1, 2 or 5 series, manufactured by the same manufacturer in accordance with the same principal, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21(75)/96]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 नवम्बर, 1998

का. आ. 2467.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और संभावना यह है कि अविरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा(7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए वर्ग 3 यथार्थता (मध्यम यथार्थता) वाली "पी.एल.-3001" श्रृंखला की स्वतः सूचक, अस्वचालित, तोलन उपकरण जिसके साथ कोणिक उपदर्श है, के (यांत्रिक तुला चौकी) के माडल का जिसका ब्रांड का नाम "एवरलास्ट" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मै. अशोका मेटल वर्क्स एण्ड कम्पनी, 30/8 के.एम. स्टोन, दिल्ली-रोहतक राजमार्ग, बहादुरगढ़-124507, हरियाणा, द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई./एन./डी./09/98/32 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है;

यह माडल (आकृति देखें) मध्यम यथार्थता (यथार्थता वर्ग III) तोलन यंत्र है, जिसकी अधिकतम क्षमता 50 टन और न्यूनतम क्षमता 100 कि. ग्रा. है। सत्यापन मापमान अन्तर 5 कि. ग्रा. है।



इसके अतिरिक्त केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषित करती है कि उक्त माडल के अनुमोदन के इस प्रमाण-पत्र के अन्तर्गत समान श्रृंखला के तोलन यंत्र भी हैं जिसके अधिकतम सत्यापन आन्तरिक माप क्रम 10,000 से कम (एन. $\leq 10,000$) है और जिसका "ई" मूल्य 1, 2, 5 श्रृंखला का है जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और सामग्री से किया गया है; जिससे अनुमोदित माडल विनिर्मित है।

[फा. सं. डब्ल्यू एम-21 (87)/96]

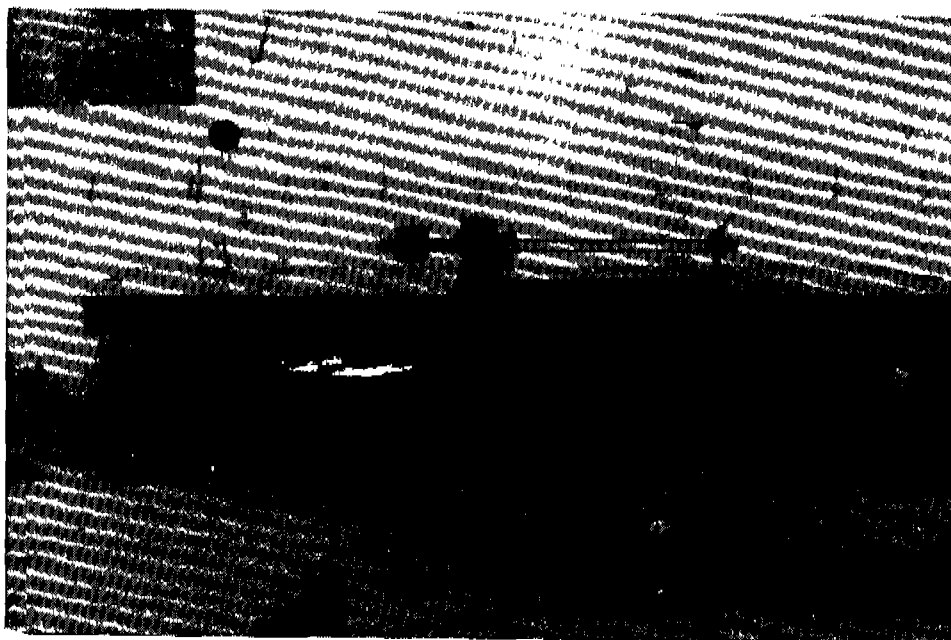
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th November, 1998

S. O. 2467.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weight and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain the accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic, weighing instrument with analogous indication (mechanical weigh bridge) type "PL-3001" series of class III accuracy (Medium accuracy) and with brand name "EVERLAST" (hereinafter referred to as the model) manufactured by M/s Ashoka Metal Works & Co., 30/8, K.M. Stone, Delhi Rohtak High Way, Bahadurgarh-124507 (Haryana) and which is assigned the approval mark IND/09/98/32 ;

The model (see figure) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 50 tonne. and minimum capacity of 100kg. The verification scale interval (e) is 5 kg.



Further, in exercises of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with maximum number of verification scale interval (n) less than or equal to 10,000 ($\leq 10,000$) and with 'e' value of 1, 2, 5 series, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21(87)/96]
P. A. KRISHNAMOORTHY, Director, Legal Metrology

श्रम मंत्रालय

नई दिल्ली, 2 नवम्बर, 1998

का. आ. 2468.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण, में, केन्द्रीय सरकार भारत गोल्ड माइन्स लि० के प्रबन्धतंत्र के संबद्ध निषेजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-11-98 को प्राप्त हुआ था।

[सं. एल-43012/3/95-आई.आर. (विविध)]

बी.एम.डेविड, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 2nd November, 1998

S.O. 2468.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharath Gold Mines Ltd., and their workman, which was received by the Central Government on 2-11-98.

[No. L-43012/3/95-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, the 13th October, 1998

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

Central Reference No. 55/97

The President,
Bharath Gold Miners Assn.,
No. 5, Opp: Punjabi Qrts.,
Oorgaum, K.G.F.-563120.
The Managing Director,
Bharath Gold Mines Ltd.,
Suvarna Bhavan,
K.G.F.-563120.

AWARD

The Government of India having satisfied that an Industrial Dispute exists between the parties has referred the following schedule for adjudication:

SCHEDULE

"Whether the action of the management of Bharath Gold Mines Ltd. in terminating the services of Sri Md. Shaffi with effect from 28-10-92 is justified? If not, to what relief Sri Shaffi is entitled to and from which date?"

Consequent to this reference this Tribunal registered a case and sent notices to the parties. The I party was present on 26-12-97 and filed claim statement alongwith a list of documents. This Tribunal directed the I party to send a copy of the Claim Statement by RPAD to the II Party. In obedience to this direction, the I Party sent copy of the Claim Statement to the II Party who has duly acknowledged the receipt. The acknowledgement to this effect is also filed by the I Party (Since the II Party failed to appear a notice under RPAD and that notice was served to the II Party). Since the II Party failed to appear even after this notice a fresh notice by RPAD was issued. On 28-9-98 due to the absence of the II Party, even after receiving the notice it is felt that he has no interest in this litigation and therefore

he has been placed ex-parte and directed the I Party to place his evidence in support of his dispute.

Before adverting to the evidence of the I Party brief advertance to the pleadings is found necessary.

The I Party has contended that he was working as a I Class Winding Engine Driver bearing PE No. 124604 in Champion Reef Mines of the II Party. He has put a total service of 14 years as on October 1992. He has further stated that on 6-7-92 while he was on duty he lost his consciousness and therefore he was shifted to BCML Hospital where he was an in patient. As per the advise of CMO he has been referred to Jayadeva Institute of Cardiology, Bangalore. After examining him at Bangalore the concerned Doctors opined that he should undergo open heart surgery and also gave the details of expenses which comes to Rs. 48,700.

However, the management has not made any move to send him to Jayadeva Institute and therefore he was taking treatment as an out-patient at BGM Medical Establishment. Then he was referred to Medical Board who declared that he was medically unfit.

It is further submitted that his representation to the Chief Engineer praying to provide a light job on surface has not been considered though a recommendation was made by the Chief Engineer. However, the I Party went to Sri Satvasai Institute of Higher Medical Sciences, Puttaparthi and the said Institute taking into consideration the economic conditions has conducted open heart surgery during the period 17-2-94 and 25-2-94. He was discharged on 9-3-94 and with a discharge memo. When he approached the II Party to get his job back, he has been advised to bring one more Certificate from Puttaparthi which should be hand-written by the concerned Doctor as the II Party suspected the bona-fides of Medical Certificate.

The I Party infact obtained a Certificate to that effect and approached the management. But they have declined to provide any employment, setting aside the termination order dated 28-10-92.

The I Party further contended that ever since he has been dismissed from service he has undergone mental agony and his dependants have suffered as he was a bread earner. Therefore, he prayed for an award holding that the II Party Management was not justified in terminating his services and he further prayed for reinstatement, continuity of service, full back wages or any other alternative and suitable job.

The I Party examined himself as a witness and reiterated the facts which he has narrated in his claim statement. In support of his oral evidence he has also produced available documents in support of his contention. Since the II Party failed to appear and file any counter statement repudiating the claim of the I Party the undisputed evidence of the I Party is required to be accepted which are corroborated by the documentary evidence.

On perusal of the documents Ex. W1 to Ex. W13 there is absolutely no material to disagree the contentions raised by the I Party. Ex. W13, failure of Conciliation sent by the Asstt. Labour Commissioner (C), and Conciliation Officer dated 9-2-95 contain all the contentions raised by the workman. On perusal of both oral and documentary evidence it is admitted of no doubt that the workman who has been appointed on 11-10-77 passed on the examination of handling the winding engines evidenced by the Certificates Ex. W1 and W2 when he was found physically unfit due to his heart ailment supported by the documents Ex. W5 to Ex. W6 the management has not made any efforts to assist him to get a better treatment as suggested by the Cardiologist. The workman has not lost his hope and he was taking treatment as an outdoor patient and ultimately he has succeeded in setting the better treatment at Puttaparthi and he has been found fit to work, though not as an Engine Operator.

When he made such a valient effort to secure his job, the management was not justified in sticking to their termination order passed on 28-10-92.

The term 'medically unfit', indicates a persons incapacity to do any physical labour permanently during his later part of life. But when the ailment is curable the management

should assist the workman in getting the treatment. He cannot be thrown out of employment depriving his right to work and maintain his family in a welfare state like ours. Therefore, the management was not justified in terminating his services without making any attempts to get him a better medical treatment to lead a better life. It is also open for the management to consider the plight of the workman when he returned after undergoing open heart surgery at Puttaparthi.

Having regard to these circumstances the following Award is made :

AWARD

"The Order of the II Party terminating the services of Sri Md. Shaffi with effect from 28-10-92 is not justified.

The Petitioner is entitled to an Order of reinstatement. Since the workman is not able to undertake heavy duty he shall be provided any light duty in consultation with CMO of Bharath Gold Mines Ltd. Hospital. Though we have not inclined to pay the back wages from the date of termination till the date of reinstatement, in view of the fact that the I Party was not able to discharge his duties the management is directed to pay a lump-sum of Rs. 40,000. His salary shall be fixed on the basis of continuation of service from 28-10-92 and that wages shall be paid to him after his reinstatement. If the management so desires they can also offer a voluntary retirement to the workman in accordance with the scheme envisaged by the II Party."

(Dictated to Stenographer, transcribed by her, corrected by me and signed 13th Day of October, 1998.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 2 नवम्बर, 1998

का० आ० 2469.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईन्स लि. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुवन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-11-98 को प्राप्त हुआ था।

[स० एल- 43012/4/89-आई. आर. (विविध)]

बी० एम० डेविड, डेस्क अधिकारी

New Delhi, the 2nd November, 1998

S.O. 2469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharath Gold Mines Ltd. and their workman, which was received by the Central Government on 2-11-98.

[No. L-43012/4/89 IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT BANGALORE

Dated 7th October, 1998

PRESENT:

Justice R. Ramakrishna Presiding Officer.

Central Reference No. 41/89

Sounder.
S/o Subramani.
No. 143, Cynade Lane,
Marikunnam Post,
Kolar Gold Fields-17.

The Managing Director,
Bharath Gold Mines Ltd.,
'Swarna Bhavan',
Oorgaum Post,
Kolar Gold Fields-563 120.

AWARD

The Government of India opined that an Industrial dispute exists between the parties referred to in the cause title has referred this dispute for adjudication on the following Schedule:

SCHEDULE

"Whether the dismissal of Sri Sounder, General Labour (T. No. 2603) Mysore Mine with effect from 24-7-95 by the Management of M/s. Bharath Gold Mines Ltd., K.G.F. is justified? If not to what relief Sri Sounder is entitled to?"

Consequent to registration of this case the parties appeared along with their advocates and filed claim statement and counter statement respectively. Later the claim Statement was amended incorporating additional facts. The II Party filed amended counter statement.

The I Party who joined the services of the II Party as a casual labourer in the year 1980 was made permanent subsequently. On 5-10-84 on a search it was found that the I Party was in possession of a small cloth bundle containing gold bearing quartz pieces and gold powder. Since the act of the I Party amounted to misconduct under standing Order Nos. 15(b), (23), (28) and (34) of the standing Orders of the Company the charge sheet was issued. After taking into consideration the explanation offered by the I Party a domestic enquiry was conducted by an Enquiry Officer. The Enquiry Officer after conducting the enquiry in accordance with Law and Principal of natural justice has found that the I Party was guilty of the charges under standing Order No. 15(b), 23, 28, 34 has submitted his Report. The Disciplinary Authority issued a Show Cause Notice and after giving a personal hearing has concurred that the findings of the Enquiry Officer and ordered for the dismissal of the workman.

The Appellate Authority on the appeal filed by the I Party workman examined the proceedings and other connected papers and having satisfied that there is no extraneous circumstances to alter the punishment dismissed the appeal.

This Tribunal has recorded the evidence on the preliminary issue relating to the validity of departmental enquiry by allowing both the parties. The findings was recorded on this issue by my Learned Predecessor that the domestic enquiry against the I Party is in accordance with Law and principles of natural justice. This Order was passed on 28-7-97.

The proceedings of the case after this Order is in a way came to standstill. Notice under RPAD is ordered against both parties and issued. The Advocate for the II Party appeared and the notice sent to the I Party returned without service after attempting to serve for 6 days as noted in the returned cover. On a perusal of the records of the proceedings and the Claim Statement of the I Party he has relied on a judgement in CC No. 2242/84 on the file of the Principal Judicial Magistrate First Class/KGF wherein I Party was chargesheeted for offence of theft punishable under Sec. 6 and 13 of the Karnataka Mines Act read with Sec. 379 of the Indian Penal Code and after recording the evidence he has been acquitted under Sec. 248(1) of Criminal Procedure Code.

Therefore, the contention of the I Party is that he having acquitted in a Criminal case for the same offence being held in his benefit the order of dismissal made by the II Party is not legally sustainable.

The Law is well settled that an offence tried in a Criminal Court and a Departmental Enquiry for the same offence stands in a different footings. In Departmental Enquiry prima facie evidence both oral and documentary produced before the enquiry Officer will constitute the materials for reaching a conclusion. But in a Criminal case the prosecution is required to prove the guilt of an accused

beyond reasonable doubt and if there is an doubt the benefit will be given to an accused.

Even if we accept the contention raised by the I Party there is no material placed by him to indicate the II Party for having practiced victimisation and unfair labour practice. In the absence of any materials on these points this Tribunal cannot overturn the conclusion reached in the departmental enquiry.

Having regard to these facts and circumstances, the schedule to the reference is to be held in the affirmative

AWARD

In the result this reference is rejected justifying the action taken by the II Party.

(Dictated to Stenographer, transcribed by her, corrected by me and signed on this Wednesday, the 7th day of October 1998).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 2 नवम्बर, 1998

का०आ० 2470.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईन्स लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-11-98 को प्राप्त हुआ था।

[सं० एल-43012/7/94-आई.आर. (विधि)]

बी० एम० डेविड, डेस्क अधिकारी

New Delhi, the 2nd November, 1998

S.O. 2470.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mine Ltd., and their workman, which was received by the Central Government on the 2-11-1998.

[No. L-43012/7/94-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, BANGALORE

Dated 16th October, 1998

PRESENT :

Justice R. Ramakrishna—Presiding Officer.

C.R. No. 19/1997

I PARTY

The President,
Bharat Gold Mine Ltd.,
Association,
Oorgaum Post,
K.G.F. 563120.

II PARTY

The Managing Director,
Bharat Gold Mine Ltd.,
Oorgaum Post,
K.G.F. 563120.

AWARD

The Government of India has referred this dispute for adjudication on the following schedule.

"Whether the management of Bharat Gold Mines Ltd. is justified in denying annual increments to Shri Sinduraj, P.E. No. 003888 for the years 1990, 1992 and 1993, privilege leave for 14 days and settlement of terminal benefits on the basis of the wage drawn by him as on 31-12-1988? If not, to what relief he is entitled

This dispute espoused by the President, Bharat Gold Mines Ltd. Association, K.G.F. Though the President appeared on the first date of hearing i.e. on 20-8-1997 he has not filed the claim statement on the adjourned dates. The second party represented by its advocate. The President was directed to file claim statement but he raised a plea that the workman is not available and he is also not approached him to assist in filing the claim statement. The learned advocate is not able to give the address of the workman to send a notice in his individual capacity. The President also filed Memo of retirement giving reasons that non co-operation of the workman result in not filing the claim statement and proceed in the dispute.

In view of these circumstances the reference cannot be adjudicated on its merits. In the result I make the following order.

The reference is rejected for non prosecution

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 2 नवम्बर, 1998

का०आ० 2471.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोचीन पोर्ट ट्रस्ट के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में लेबर कोर्ट, अरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-11-98 को प्राप्त हुआ था।

[सं० एल-35011/1/92-आई.आर. (विधि)]

बी० एम० डेविड, डेस्क अधिकारी

New Delhi, the 2nd November, 1998

S.O. 2471.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Cochin Port Trust and their workman, which was received by the Central Government on 2-11-98.

[No. L-35011/1/92-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(Labour Court, Ernakulam)

(Tuesday, the 21st day of April, 1998)

PRESENT:

Smt Varghese T. Abraham, B.A., LL.M., Presiding Officer.

Industrial Dispute No. 16 of 1992 (C)

BETWEEN

The Charman, Cochin Port Trust, Wellington Island, Cochin-9.

AND

The Secretary, Cochin Port Workers' Association, Wellington Island, Cochin-3.

REPRESENTATIONS:

M/s. Menon & Pai,

Advocates, Kochi-18.

...For Management.

M/s. Nampan Thomas Associates,

Advocates, Market Road, Kochi-11. ...For Union

AWARD

The Government of India as per Order No. L-35011/192-1A (MISC.) dated 28-9-92 referred the following industrial dispute for adjudication :

"Whether the action of the management of Cochin Port Trust in denying promotion to Sri. K. K. Bhaskaran, Assistant in the Electrical section of the Chief Mechanical Engineer's department as Electrical Fitter Grade-II even though he passed the trade test conducted on 28-6-1989, in the vacancy caused due to the death of Sri. K. K. Damodaran on 4-10-1988, is justified? If not, to what relief the said workman is entitled."

2. The union set up the following facts : The worker Sri. K. K. Bhaskaran is a member of the union. He was eligible for promotion as Electric Fitter Grade II from the post of Assistant when trade test were conducted on 28-6-1989. He and other three persons came out successful. The other three persons were promoted to Grade II Fitter on 20-1-1990. One was junior to Sri. K. K. Bhaskaran. Even though there was vacancy, he was not promoted. Subsequent test was conducted on 14-5-90 and the result was published on 24-5-90. In that test Sri. M. K. Joshy came out successful and he was given promotion as Grade II on 24-5-90 overlooking the claims of Sri. K. K. Bhaskaran even though he was qualified in the trade test conducted earlier and there was vacancy in existence. The Association represented to the Chief Mechanical Engineer about the illegal denial of promotion. Vacancy arose on 4-10-88, Sri. K. K. Damodaran, Electric Fitter Grade II died. The management took up the stand that there was no denial of promotion. The second test was held on 14-5-90 Sri M. K. Joshy came out successful and he was promoted as Fitter Grade II reserved for Scheduled caste and Sri. Joshy was found senior to Sri. K. K. Bhaskaran. On 9-4-91 the union again made representation, pointing out that the vacancy occurred on 4-10-88. It is also mentioned in the representation that after the death of Sri. K. K. Damodaran, 8 months elapsed. Eventually there was conciliation which ended in failure and hence the reference.

3. As per regulation 16 of Cochin Port Trust Employees (Recruitment, Seniority and Promotion) Regulation 1964 the Departmental Promotion Committee shall prepare a list of employees fit for appointment against the promotion quota of vacancies in various grades or posts. The employee shall be arranged according to the order of merit adjudged by the selection committee and the select list so prepared shall be utilised for filling up vacancies likely to arise during the course of the year. So the department was bound to comply with the regulation. Even though there were 4 persons qualified in the trade test and there were 4 vacancies including the death vacancy, the department has filled only 3 vacancies by promoting 3, including the one junior to the present workman and overlooking the claim of present workman. This is done w.e.f. 20-1-1990 excluding Sri K. K. Bhaskaran. The denial of promotion has adversely affected career of Sri. K. K. Bhaskaran. There was no bar for promotion. The denial of promotion of Sri. K. K. Bhaskaran is against all norms. The management's action is mala fide. The stand taken by the management is unsustainable. The workman is entitled to get promotion along with those who were promoted on 20-1-90 and he is entitled to get all service benefits including arrears of pay. So it is prayed for directing the management to issue orders promoting Sri. K. K. Bhaskaran as fitter grade II w.e.f. 20-1-90 and also direct to disburse him all pecuniary benefits. He also prays for all subsequent benefits.

4. The defence : All the necessary parties are not on party array. The persons who are likely to be affected by the award, if any passed, are not brought on record. So the reference is bad. The promotion is governed by the above regulation No. 16, the Departmental Promotion Committee used to conduct a trade test periodically. It is admitted that test was conducted on 28-6-89 for the post of Electric Fitter-II. It is also admitted that Sri K.K. Bhaskaran appeared for the above test and he passed along with 3 others. Generally the trade tests are conducted once in 6 months irrespective of the vacancies available. Though there were 4 vacancies, the management decided to fill up only three vacancies which were very essential. After 6 months next trade test was conducted on 14-5-1990 and Shri M. K. Joshy passed the same. The Departmental Promotion Committee met on 22-6-1990 and considered the cases of Sri K. K. Bhaskaran and hence Sri Joshy was recommended for promotion. According to Regulation 16 of the above regulation while adjudging the merit of an employee due regard should be given to his seniority. The promotion of Sri M. K. Joshy in preference to Sri K.K. Bhaskaran in accordance to the provisions of Regulation 16. So there is no scope for complaint. Contrary allegation are misleading. No junior of Sri. K. K. Bhaskaran was promoted on 20-1-1990. Mere ptss in the trade test will not entitle him to claim promotion as a matter of right. It is for the Departmental Promotion Committee to decide when vacancies should be filled up by promotion. When the test was conducted on 28-6-1989, four vacancies were detected. But the management felt that it was not necessary to fill up the post that had arisen due to the death of Sri. Damodaran on 23-6-1990. By that time, Sri. Joshy had passed trade test and qualified for promotion. Since he was senior to Sri K. K.

Bhaskaran, he was preferred and promotion was given to him and the management has not denied promotion to Bhaskaran. Therefore, the question of adversely affecting career does not arise at all. Sri Bhaskaran had already been promoted as Wireman II w.e.f. 11-12-1991. The pay scale applicable to Electric Fitter II and Wireman II is the same. Sri Bhaskaran has been further promoted as Electric Fitter-I w.e.f. 4-1-93 in the enhanced pay scale. The vacancy arose on the death of Damodaran was not recommended by the Departmental Promotion Committee till 22-6-90. It is not mandatory to fill up the vacancies that may arise in a particular year in that year itself. The unions cannot compel the management to fill up that vacancy. The reliefs claimed are not liable to be allowed. The allegations are baseless and unsustainable. The promotion given to Sri Joshy is legal and valid. There is no merit in the case set up by the union.

5. A rejoinder is filed by the union reiterating the averments in the claim and controverting the defence contentions.

6. Evidence in the case consists of the testimony of WW1, MW1 and Exts. Ws. 1 to 5 and M1 to M7.

7. Heard both sides.

8. Points which emerge for consideration are :

- (i) Is the reference is bad for non-joinder of necessary parties ?
- (ii) Is there any illegal denial of promotion to Sri K. K. Bhaskaran as alleged by the union ? If so, to what relief is he entitled to get ?

9. Point No. 1 : What is the dispute is the case of promotion. A few persons who are already promoted were not made parties to the reference. It is well settled that when an award is likely to be passed in favour of the workman or an order is made in service matters, the parties who are likely to be affected by the award or order shall be made co-nominee parties. In this case the other persons whose names will be discussed below and likely to be affected by the claim put forward by the workman must be necessary parties. So the reference is bad for non-joinder of necessary parties. Point No. 1 so found.

10. Point No. 2 : The party for whom the union put forward the case has not turned up to give evidence. Instead of WW1 who is the union secretary alone is examined. It is an admitted case that the trade test is conducted on 28-6-89 and in that test 4 persons including Sri Bhaskaran came up successful. All other three persons were promoted as Electric Fitter II. M. K. Joshy did not succeed in the test and on 14-5-90 another test was held. In that test Joshy passed and he was given promotion. The grievance of the union is that he passed the trade test before Joshy passed the trade test on 14-5-90. The grievance voiced by the union is that there arose a vacancy due to the death of Sri K. K. Damodaran on 4-10-88. The representation as Ext. W1 was given by the union. Ext. W2 is the reply given by the Chief Mechanical Officer. In the reply it is

stated that trade test was held without foreseeing vacancies. Ext. W3 is another representation and it was not replied and hence Ext. W4 complaint was given before the ALC who in turn sent failure report. Ext. W5 is the regulation referred to above. Both sides placed reliance of regulation 16 of Ext. W5. That will be discussed later. The allegation of the union is that the management did not comply with Ext. W5. In cross examination he admitted that the test held on 28-6-89, Ravindran Nair, K. A. Ghosh, K. K. Bhaskaran, G. Rajendran came out successful. The management promoted Sri Ravindran Nair, Ghosh and Rajendran. WW1 does not know the post held by these three persons. He does not know the present post of M. K. Joshy. He admits that K. K. Bhaskaran is now holding the post of Electrician Grade I. He does not know whether the 4 persons already promoted are working under K. K. Bhaskaran. He says that trade test will not be held if there is no vacancy. According to him when the test was held on 28-6-89 there were 4 vacancies including the death vacancy of K. K. Damodaran. The other three vacancies are on account of promotion or retirement. He says that the management can know in advance the vacancies which are likely to be arisen due to promotion or retirement. The death vacancy can be known only after the death. So the main grievance voiced by him is that what was not filed is the death vacancy of K. K. Damodaran. In the subsequent test held on 14-5-1990, M. K. Joshy became qualified. He does not know whether that post was reserved or not. He further admits that M. K. Joshy is much senior than K. K. Bhaskaran and other 3 persons are also senior to Bhaskaran. He will further admit that as per regulation 16 of Ext. W5 seniority is the criterion. So Ext. W5 has to be looked into. The first part of regulation deals as follows :

"The departmental promotion committee shall meet once or twice a year as may be necessary and prepare a 'Select list' of employees fit for appointment against the promotion quota of vacancies in the various grades or posts. Where promotion is made on the basis of merit, normally the field of selection shall not be less than three times and shall not be more than five times the number of vacancies subject to employees with necessary qualifications or experience being available. The Departmental Promotion Committee may at its discretion alter these limits to suit exceptional circumstances. Employees shall be arranged according to the order of merit adjudged by the committee and the select list so prepared shall be utilised for filling up vacancies likely to arise during the course of the year. While adjudging the merit of an employee, due regard shall be given to his seniority also."

The above extracted portion will show that the Departmental Promotion Committee has discussed to alter the limits to suit Exceptional circumstances. So it is an admitted case that Joshy was senior to Bhaskaran. So there is no harm in giving promotion to Sri Joshy overlooking Sri Bhaskaran who passed the test earlier. There is nothing in Ext. W5 to show that promotion is a matter of right. Apart

from this rule 19 says, if any question arises relating to the interpretation of regulations the matter shall be referred to the Board, who shall decide the same. It is true that K. K. Bhaskaran passed the test held on 27-7-89 and M. K. Joshy failed. As per Ext. M1, the proceedings of the Departmental Promotion Committee the post of Electric Fitter-I is to be filled up by promotion by selection after trade test. From lower cadre like Fitter II, Wireman II etc. Ext. M1 order was issued due to the promotion of one Velayudhan Fitter-I w.e.f. 11-1-89. Sri. S. Muralcedharan who was senior most who passed the trade test held on 28-6-89, Sri. K. A. Ghosh, Rajendran, Ravendran and Bhaskaran have passed. But the junior most is Sri K. K. Bhaskaran. So Departmental Promotion Committee recommended promotion for these three persons. As per Ext. M4 dt. 4-1-93 Sri K.K. Bhaskaran is promoted as Electric Fitter-I with immediate effect from 31-3-92. Another grievance of the workman is that the death vacancy which arose on 4-8-88 was not filled as per trade test conducted on 28-6-89. The reply given by MW1, the Chief Engineer, Electrical that certain formalities have to be complied with and it was impossible to fill up the death vacancy of Sri. K. K. Damodaran on 4-10-88 on the basis of the test held on 28-6-89. The formalities include death certificate, notification, special representation, clearance etc. When the test was held on 28-6-89, death vacancy was not filled, workers Ghosh, Ravindran and Rajendran were seniors to the present workman. In the test held on 14-5-90 Joshy alone was qualified and thereby death vacancy was filled up. M. K. Joshy is senior to the present workman. Thus, it is clear from the testimony of MW1 that seniority is taken as the main consideration of promotion. This is stated in Ext. W5 also. Moreover to fill the vacancy by promotion is managerial prerogative. The workman has no vested right to get promotion and he cannot claim it as of right. WW1 has not given any evidence to show how the service of the present workman is adversely affected on the other hand his testimony will show that he does not know the abc. of the service conditions of others and the present position existing in the management. So to sum up, there is no illegal denial of promotion. The reliefs claimed are not allowable. Points found against the workman.

In the result, the reference is answered holding that there is no illegal denial of promotion to Sri K. K. Bhaskaran as referred to in the order of reference and that he is not entitled to get any relief under industrial law.

Ernakulam,

21-4-1998.

VARGHESE T. ABRAHAM, Presiding Officer,

APPENDIX

Witness examined on the side of Management :

MW-1. Sri K. Balachandran.

Witness examined on the side of Union :

WW-1. Sri Ajithkumar.

Exhibits marked on the side of Management :

Ext. M1 Photo copy of Departmental Promotion Committee proceedings on 22-6-1990.

Ext. M2. Photo copy of persons promoted on 20-1-90 and their seniority.

Ext. M3. Photo copy of extract of seniority list as on 1-1-90, Group V.

Ext. M4 Copy of posting order No. E5-P&T/DPC/93-II dated 4-1-93, issued to Sri K. K. Bhaskaran.

Ext. M5. Photo copy of promotion order dated 15-4-94 issued to K. K. Bhaskaran promoting him as Electrician-I.

Ext. M6. Photo copy of promotion order dated 28-8-96 issued to K. A. Ghosh promoting him as Fitter-I.

Ext. M7. Photo copy of promotion order dated 11-2-94 of Sri G. Ravindran Nair, promoting him as Electrician-I.

Exhibits marked on the side of Union :

Ext. W1. Copy of representation of the Secretary of the Cochin Port Trust Workers Association addressed to the Asst. Labour Commissioner dated 12-3-91.

Ext. W2. Copy of reply dated 1-4-91 to the Secretary, Cochin Port Workers Association from the Chief Mechanical Engineer.

Ext. W3. Copy of letter from the Secretary, Port Trust Workers Association to the Chief Mechanical Engineer dated 9-4-91.

Ext. W4. Copy of representation of the Secretary of the C.P.W. Association to the Assistant Labour Commissioner, dated 26-9-91.

Ext. W5. Photo copy of Regulation 16 of Cochin Port Employees (Recruitment, Seniority and Promotion) Rules, 1964.

नई दिल्ली, 5 नवम्बर, 1998

का०आ० 2472.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रीजनल इन्स्टीट्यूट ऑफ एज्यूकेशन, अजमेर के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, अजमेर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-98 को प्राप्त हुआ था ।

[सं० एल-42012/72/97-आई. आर. (डी.यू.)]

के० बी० बी० उष्णी, अवर सचिव

New Delhi, the 5th November, 1998

S.O. 2472.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of

the Industrial Tribunal, Ajmer as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Regional Institute of Education, Ajmer and their workman, which was received by the Central Government on the 5-11-1998.

[No. L-42012/72/97-IR (DU)]

K. V. B. UNNY, Under Secy.

अनुबंध

न्यायालय श्रम न्यायाधीश एवं औद्योगिक न्यायाधिकरण,
अजमेर (राज.)

सीआईटीआर 6/98

[रेफरेंस नं० एल-42012/72/97 आईआर (डीयू) दि. 28-5-98]

पीठासीन अधिकारी : श्री नानगराम शर्मा,
आर.एच.जे.एस.

श्री नरेन्द्र सिंह पुत्र श्री शोभानाथ सिंह द्वारा श्री विजय
कुमार गोतम,
ग्रंथालाडी, तोपदंडा अजमेर —प्रार्थी

बनाम

प्रिंसिपल रीजनल इंस्टीट्यूट ऑफ एजुकेशन, पुष्कर
रोड, अजमेर

—अप्राथी

दिनांक 15-10-1998

अवार्ड

केन्द्रीय सरकार द्वारा यह रेफरेंस इस न्यायालय को
निर्णय हेतु प्रेषित किया गया जो निम्न प्रकार है :—

“Whether the action of the management of Regional Institute of Education, Pushkar Road, Ajmer in terminating the services of Shri Narendra Singh w.e.f. 19-6-91 is legal and justified? If not, what relief the concerned workman is entitled for?”

प्रार्थी को अपना क्लेम प्रस्तुत किये जाने के लिए नोटिस जारी किये गये हैं। प्रार्थी की ओर से क्लेम प्रस्तुत किए जाने के लिए समय आह्वान किया गया है, लेकिन आज प्रार्थी की ओर से यह प्रकट किया गया है कि क्लेम प्रस्तुत करना नहीं चाहता है। प्रार्थी द्वारा अपना क्लेम प्रस्तुत नहीं किये जाने से ऐसा प्रकट होता है कि पक्षकारान के मध्य अब कोई विवाद नहीं रह गया है। अतः यह रेफरेंस “कोई विवाद नहीं” के आधार पर निर्णीत किया जाता है। अवार्ड की प्रति केन्द्रीय सरकार को वास्ते प्रकाशनार्थ नियमानुसार प्रेषित की जावे।

अवार्ड आज दि. 15-10-1998 को लिखाया जाकर खुले न्यायालय में सुनाया गया।

पढ़ा सुना सही पाया।

नानगराम शर्मा, न्यायाधीश

नई दिल्ली, 5 नवम्बर, 1998

का. आ. 2473.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैंगलोर टेलीकॉम डिस्ट्रिक्ट के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-98 को प्राप्त हुआ था।

[सं. एल.-40012/139/95-आईआर (डीयू)]

के. वी. बी. उन्नी, अवर सचिव

New Delhi, the 5th November, 1998

S.O. 2473.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mangalore Telecom District and their workman, which was received by the Central Government on the 5-11-1998.

[No. L-40012/139/95-IR (DU)]

K. V. B. UNNY, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT AT BANGALORE

Dated, 15th October, 1998.

PRESENT :

Justice R. Ramakrishna Presiding Officer.
C. R. No. 150/97.

Ist Party :

Shri K. Shankar Naik C/o. Shri K. Nagesh Kumar, Shri Ganesh Prasad, Malemar Ashok Nagar Post, MANGALORE—575 006.

IInd Party :

The General Manager, Mangalore Telecom Distt, Old Keno Road, MANGALORE—575 001.

AWARD

This reference sent by Government of India exercising the power u/s. 10 of the Industrial Dispute Act, the termination of the first party by the second party called in question to show legal and justified.

“Whether the action of the management of Mangalore Telecom District in terminating the services of Shri K. Shankar Naik is proper, legal and justified? If not, to what relief the workman is entitled to?”

The ordinary notices issued by this tribunal did not make any effect, on the parties as they remained absent. On issue of court notices by R. P. A. D.

Central Government Additional Standing Counsel made the appearance for the second party. The first party who received the notice failed to appear though the case was kept up to 1.30 p. m. The case was adjourned for his appearance on 15-10-98. The first party did not make his appearance even on this date.

Though the burden being on the management, when there being no claim statement, the reference can not be adjudicated.

In these circumstances this reference is rejected.

Sd./-

JUSTICE R. RAMAKRISHNA,
Presiding Officer.

नई दिल्ली, 6 नवम्बर, 1998

का. आ. 2474.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डिपार्टमेन्ट ऑफ पोस्ट के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-98 को प्राप्त हुआ था।

[सं. एल.-40012/75/95-आई आर (डी यू)]

के. वी. बी. उन्नी, अवर सचिव

New Delhi, the 6th November, 1998

S.O. 2474.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of D/o. Posts and their workman, which was received by the Central Government on 6-11-98.

[No. L-40012/75/95-IR (DU)]

K. V. B. UNNY, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. II MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer

Reference No. CGIT 2/32 of 1996

Employers in relation to the management of post.

AND

Their Workmen

APPEARANCES :

For the Employer—Mr. B. M. Masurkar, Advocate.

For the Workmen—Mr. Jaiprakash Sawant, Advocate.

Mumbai, the 8th October, 1998

AWARD

The Government of India, Ministry of Labour by its order No. L-40012/75/95-IR (DU) dtd. 27-6-96, had referred to the following Industrial Dispute for adjudication :

"Whether the action of the management of D/o. Posts, Controller, Foreign Mails, Bombay in terminating the services of Shri Ramesh Daji Pawar is legal and justified? If not, to what relief the workman is entitled to?"

2. Ramesh Daji Pawar, the workman joined the Controller of Foreign Mails as Hamaal in 1985. His salary was Rs. 1,800/- p.m. His services were terminated without any justification w.e.f. 25-7-92.

3. The workman pleaded that Mrs. Tayade the Officer asked him to bring tea/coffee, Vada etc. on 24-7-92. He refused to oblige it being her personal work. She got angry and tried to remove him from service with the help of one kashikar. It is asserted that before terminating him from service no chargesheet was given nor a departmental inquiry was conducted. He was not paid retrenchment compensation nor any other legal dues at the time of termination. It is averred that his termination is in violation of provisions of Industrial Disputes Act of 1947.

4. The workmen pleaded that on receipt of the telegram from the management he attended the office at about 2.00 p.m. on 24-7-85. At that time the concerned officer forcefully taken his signature on a paper which was written in English. He immediately wrote a letter to the management mentioning all these facts on 4-8-95. It is prayed that for all these reasons he may be reinstated in service with full back wages, alongwith other reliefs.

5. The management resisted the claim by the Written Statement Exhibit-5. It is averred that the postal department is not an industry within the meaning of the work as defined under section 2(j) of the Industrial Disputes Act and as such the Tribunal has no jurisdiction.

6. The management pleaded that the workman was engaged as a casual labourer in the Foreign Post Office on 11-12-85. He was paid full wages. It is averred that he was working as a Hamaal was found involved in case of a theft of a contents of parcel No. 3776 received from Vienna (Australia) and destined to Katmandu (Nepal). His involvement was confirmed in the investigation. He was given a reasonable opportunity during the course of investigation by recording his statement and thereafter his services were terminated. It is denied that this is a case of retrenchment and the workman is entitled to the benefits as claimed. It is submitted that in view of the instruction issued from the Ministry of Labour to settle the dispute the worker was called in the office for discussion. The minutes of the meeting were recorded in writing and he signed the same. It is denied that his signatures were taken by using undue influence. It is submitted that under such circumstances the worker is not entitled to any reliefs.

7. The issues that fall for my consideration and my findings thereon are as follows :—

Issues	Findings
1. Whether the Tribunal has jurisdiction to decide the reference?	Yes.
2. Whether there was any need to hold a departmental inquiry against the worker as he was a casual labourer	opportunity is required to be given but which was not given.
3. Whether there was need to follow any of the provisions of the retrenchment?	Yes.
4. Whether the action of the management in terminating the services of Ramesh Daji Pawar is legal and justified?	No.
5. If not, what relief the workmen is entitled to?	As per order

REASONS

8. On 29-1-97 I delivered the Award and came to the conclusion that the Tribunal had no jurisdiction and further I came to the conclusion that there was no need to hold a departmental inquiry against the worker as he was a

casual labourer but an opportunity was required to be given to him which was not given. Being aggrieved by that award the workman preferred a Writ Petition Bearing No. 1186 of 1998. His Lordships came to the conclusion that the postal department is an industry in view of Theyyam Joseph's case being over ruled. This Tribunal was directed to hear and decide the reference a fresh in accordance with the law and on the basis that it has jurisdiction entertain and try the reference.

9. Admittedly there was no chargesheet issued to the workman nor any domestic inquiry was conducted against him. The department had issued a circular which states that when the person serves for more than 240 days he conquers the temporary status. The management has produced a letter issued by Director dtd. 12-4-91 (Ex-6/2). In paragraph-11 it is mentioned that if the labourer with a temporary status committed a misconduct and the same is proved in the inquiry after giving him a reasonable opportunity his services will be dispensed with. Here in the case no document is produced on the record to show that a reasonable opportunity was given to him. At Ex-6/3 minutes of discussion between workman and employer held on 24-7-96 are produced. After perusal of the minutes it cannot be said that a reasonable opportunity was given to the workman to give his submissions in the matter. Admittedly the worker had completed 240 days and was entitled to acquire a temporary status.

10. There was a charge against the workman that he committed a theft. But no record is produced to show that there was some investigation and wherein a reasonable opportunity was given to him to define the charges and he failed to do so. I therefore find that the action of the management in terminating him without giving him reasonable opportunity is illegal and unjustified.

11. In view of the directions given by His Lordships the parties were again give an opportunity to lead the evidence. But both of them have filed purshis at Ex-20 and 21 contending that they do not want to lead any oral evidence. But it must be mentioned here, the workman gave an application (Ex-18) praying for direction to the management to produce certain documents. The management produced the relevant documents alongwith Exhibit-19. Mr. Sawant, the Learned Advocate for the workman placed reliance on it and submitted that under such circumstances the reference is to be answered in his favour.

12. Exhibit-19 is a reply given by G. K. Kailash Nath dtd. 15-9-98 to Exhibit-18. In paragraph-2 he had referred to different circulars which are produced alongwith it and contended that according to the above orders the applicant that is the worker is entitled to get all benefits including temporary status. His immediate junior Shri G. S. Salve have been confirmed with a temporary status Memo GFM/ST/Casual Labourers/92 dtd. 30-11-92 (Vide pg. 31). That means the worker gets the status of casual labourer on that day.

13. There is no dispute that while terminating the service of the workman he was not given any compensation. He was in continuous service of the Opponent as contemplated under section 25 B of the Industrial Disputes Act. Therefore it was necessary to follow the provisions of retrenchment while terminating his service.

14. The Learned Advocate for the management tried to submit that even if the workman is reinstated in service he should not be given full back wages. He did not justify me why he should not be given full back wages. In his cross-examination it has come on the record that he had six guntas to give to six acres of land. But what is required is to see his income. Whether that land is cultivable or whether there is any income from that land is to be seen. There is no record to that effect. Under such circumstances I do not find any merit in the contention of the learned Advocate for the management that he should not be granted any back wages. In the result I record my findings on the issues accordingly and pass the following order :

ORDER

1. The action of the management of D/o. Posts, Controller, Foreign Mails, Bombay in terminating the 3097 GI/98—9.

services of Shri Ramesh Daji Pawar is not legal and not justified.

2. The management is directed to pay all back wages to the workman from 25-7-92, and reinstate.
3. The management is directed to treat him in continuous service.

S. B. PANSE, Presiding Officer

नई दिल्ली, 6 नवम्बर, 1998

का. प्र. 2475.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, केन्द्रीय पशु प्रजनन केन्द्र सुरतगढ़ के प्रकल्पित के संबद्ध नियोजकों और उनके कर्मचारों के बीच प्रतियोग में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, बीकानेर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-98 को प्राप्त हुआ था।

[सं. एल.-42011/26/93-आई आर (डी. यू.)]

के. वी. बी. उन्नी, अवसर सचिव

New Delhi, the 6th November, 1998

S.O. 2475.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Bikaner as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Director, Central Cattle Breeding Centre, Suratgarh and their workman, which was received by the Central Government on 6-11-98.

[No. L-42011/26/93-IR (DU)]

K. V. B. UNNI, Under Secy.

प्रमुख

केन्द्रीय औद्योगिक न्यायाधिकरण, बीकानेर :

नं. यु. सी. आई. टी. रैफरेन्स-सं. 2 सन् 1994

कालूराम आवि—5 अधिकरण द्वारा श्री भारतभूषण शर्मा महामंसी बीकानेर डिमिशन ट्रेड यूनियन काउन्सिल, खजांची बिल्डिंग, बीकानेर

—प्रार्थी/यूनियन

कालूराम

निदेशक, केन्द्रीय पशु प्रजनन केन्द्र सुरतगढ़

—प्रत्यार्थी/नियोजक

रैफरेन्स अन्तर्गत धारा 10 (1) (ब) औद्योगिक अधिनियम 1947

न्यायाधीश—श्री गुलाम हुसैन आर. एच. जे. एस.

उपस्थिति :—

1. श्री भारतभूषण शर्मा, यूनियन प्रतिनिधि

2. श्री कालूराम गुप्ता, नियोजक प्रतिनिधि

अधिनिर्णय

दिनांक, 8 अक्तूबर, 1998

श्रम मंत्रालय, भारत सरकार, नई दिल्ली ने अपने आदेश सं. एल/42011/26/93 आई. आर. (डी. यू.) दिनांक 24-8-94 द्वारा औद्योगिक विवाद अधिनियम जिसे अब के पश्चात सिर्फ "अधिनियम" कहा गया है कि धारा 10 की उपधारा (1) के खण्ड (घ) के अधीन प्रेषित इस रैफरेन्स के अन्तर्गत निम्न विवाद अधिनिर्णयार्थ इस अधि-करण में प्रेषित किया था—

"Whether the action of the management of Central Cattle Breeding Farm, Suratgarh in terminating the service of :

- (1) Shri Kaloo Ram s/o. Shri Puran Ram
 - (2) Shri Pratap Ram s/o. Shri Puran Ram
 - (3) Smt. Rajkaur w/o. Shri Puran Ram
 - (4) Shri Dangan Singh s/o Shri Bachan Singh
 - (5) Smt. Santi W/o Shri Bachan Singh
- is justified ? If not, what relief they are entitled to ?"

2. यूनियन की ओर से प्रस्तुत क्लेम विवरण के अनुसार श्रमिकगण सर्वश्री कालू राम पुत्र पूर्ण राम प्रताप-राम पुत्र पूर्णराम, डूंगरसिंह पुत्र बचनसिंह, श्रीमती राजकौर पत्नी श्री पूर्ण राम एवं श्रीमती संतो देवी पत्नी श्री बचनसिंह अप्रार्थी के अधीन 1-4-83 को नियुक्त हुए थे और उनकी सेवाएँ एक वर्ष व 240 दिवस से अधिक हो गयी थी, यूनियन के अनुसार इन पाँचों कर्मचारियों को दिनांक 1-4-89 को बिना कोई कारण बताये काम पर नहीं लिया और जुबानी आदेश से सेवा मुक्त करने को छंटनी बताते हुए यह भी कहा है कि छंटनी के पूर्व कोई कारण नहीं बताया नोटिस अथवा नोटिस के बदले में एक माह का वेतन अथवा छंटनी मुआवजा नहीं दिया, बरिष्ठता सूची का भी प्रकाशन नहीं किया गया अतः अप्रार्थी द्वारा उनकी छंटनी करना अवैध था और सभी श्रमिकगण सेवा मुक्ति दिनांक 1-4-89 से पुनः नियोजक की सेवा में सभी देय लाभों सहित बहाल होने के अधिकारी हैं।

3. अप्रार्थी नियोजक की ओर से प्रस्तुत प्रत्युत्तर के अन्तर्गत उठाई गई प्रारंभिक आपत्तियों में कहा है कि क्लेम प्रार्थीगण स्वयं द्वारा पेश नहीं किया गया है उनकी ओर से सारी कार्यवाही मास्त्र श्री भारतभूषण द्वारा करना न्यायसंगत व उचित नहीं है, श्री भारतभूषण के हक में कोई अधिकारपत्र भी प्रार्थीगण ने निष्पादित नहीं किया है, न बीकानेर ट्रेड यूनियन काउन्सिल कोई मान्यता प्राप्त ट्रेड यूनियन है अतः सरकार रैफरेन्स नहीं कर सकती इसलिये जो भी कार्यवाही हुई है वह गलत है तथा अप्रार्थी संस्थान उद्योग की परिभाषा में नहीं आता है और अप्रार्थी संस्थान पर इस अधिनियम के प्रावधान लागू नहीं होते हैं।

4. श्रमिकों की ओर से उनकी यूनियन द्वारा प्रस्तुत क्लेम विवरण का मदवार उत्तर देते हुए बताया गया है

कि श्रमिकों को निश्चित कार्य के लिये निश्चित श्रमिक के लिये दैनिक वेतन भोगी श्रमिक के रूप में सौजन पर लगाया गया था और इनका कार्य जोब ओरियंटेड है। नियोजक के अनुसार श्रमिक प्रताप सिंह को मई 1984 में कुछ समय के लिये काम पर लगाया था जिसने वर्ष 1984 में 140 दिन और 1985 में कुछ असें काम किया, जो काम छोड़कर चला गया क्योंकि उसकी आवश्यकता नहीं थी। श्रमिक राजकौर ने 1984 में 115 दिन, 1985 में 228 दिन, श्रमिक कालूराम ने 1985 में 18 दिन, 1986 में 172 दिन, 1987 में 203 दिन व संतो ने 1984 में 63 दिन, 1985 में कुछ दिन काम किया इसके अलावा श्रमिक-गण ने कोई कार्य नहीं किया। दिनांक 1-4-89 से काम से हटाने को गलत बताते हुए कहा है कि प्रताप सिंह, राजकौर तथा संतो 1985 के बाद काम पर कभी आये ही नहीं तथा डूंगर सिंह 1986 के बाद व कालूराम सन् 1987 के बाद काम पर नहीं आया अन्य सभी तथ्यों को गलत बताते हुए कहा है कि उनके द्वारा 1985, 1986 व 1987 के बाद प्रथम बार श्रम प्रवर्तन अधिकारी एवम समझौता अधिकारी के समक्ष 1992 में आवेदन किया गया है इसके अलावा कभी भी इस सम्बन्ध में सक्षम अधिकारी से कोई वार्ता नहीं की और वे खेत पर काम में लगे रहते हैं इसीलिये ये काम पर नहीं आये। अप्रार्थी का यह भी कहना है कि केन्द्रीय सरकार ने 1990 से दैनिक भोगी श्रमिक का लगाया जाना बन्द कर दिया है अतः श्रमिकगण कोई राहत पाने के अधिकारी नहीं हैं और उनका क्लेम खारिज किये जाने की प्रार्थना की गयी है।

5. साक्ष्य श्रमिक से प्राप्ति यूनियन की ओर से श्रमिक-गण कालूराम, प्रताप राम, रामप्यारेलाल, संतोदेवी, राजकौर एवं डूंगरसिंह ने अपने-अपने शपथपत्र पेश किये जिन सभी से नियोजक द्वारा जिरह की गयी है। इसके विपरीत अप्रार्थी नियोजक की ओर से श्री बलदेवसिंह ने अपना शपथपत्र पेश किया जिससे यूनियन की ओर से जिरह की गयी है। दस्ता-वेजान पेश हुए।

6. दोनों पक्षों की साक्ष्य लेने के उपरान्त इस न्याया-धिकरण ने दिनांक 25-10-96 को इस प्रकरण का अधि-निर्णय प्रार्थी के पक्ष में करते हुए अवाई जारी कर दिया। अवाई जारी होने के उपरान्त इस निर्णय के विरुद्ध माननीय राजस्थान उच्च न्यायालय में रिट याचिका प्रस्तुत की गयी। इसके साथ दो अन्य प्रकरणों का भी इसी दिन निर्णय हुआ था और उनके विरुद्ध भी रिट याचिकाएं प्रस्तुत हुई थीं। दिनांक 9/5/97 को माननीय राजस्थान उच्च न्यायालय ने इन रिट याचिकाओं का निर्णय करते हुए यह समुचित प्रदान की कि इस न्यायाधिकरण ने अप्रार्थी नियोजक द्वारा अपने-जवाब में उठाई गई दो प्रारंभिक आपत्तियों पर कोई निर्णय नहीं दिया है जबकि वे दोनों प्रारंभिक आपत्तियां इस प्रकरण के न्यायपूर्ण नितारण के लिये अत्यन्त आवश्यक थीं। माननीय उच्च न्यायालय ने उस आधार पर इस न्यायाधिकरण पारित किया गया अवाई निरस्त करते हुए यह मामला नये सिरे से अधिनिर्णय हेतु इस न्यायाधिकरण को रिमाण्ड

करते हुए यह निर्देश दिया है कि न्यायाधिकरण समस्त प्रकरणों का नये सिरे से अधिनियम करें जिनमें अप्रार्थी नियोजक द्वारा उठाई गई प्रारंभिक आपत्तियों का भी निर्णय किया जाये। माननीय उच्च न्यायालय ने ऐसा करने के लिये इस न्यायाधिकरण को आदेश प्रस्तुती से 6 सप्ताह का समय प्रदान किया था। प्रार्थी श्रमिक ने दिनांक 23-6-98 को माननीय उच्च न्यायालय के उक्त आदेशों की नकलें प्रस्तुत करते हुए इस प्रकरण का निर्णय करने की प्रार्थना की है। अप्रार्थी नियोजक को नोटिस दिया गया और माननीय उच्च न्यायालय से निस्तारण का समय बढ़ाने की प्रार्थना करते हुए प्रार्थनापत्र लिखा गया। दोनों पक्षों की बहस सूनी गयी एवं पत्रावली का अवलोकन किया गया। मेरे सामने प्रस्तुत मामले में निम्नलिखित विचारणीय बिन्दु है:

- (1) आया श्रमिकों को अप्रार्थी द्वारा 1-4-89 से सेवामुक्त करना छंटनी है?
- (2) आया अधिनियम की धारा 25—एक एवं 25—जी के आज्ञापक प्रावधानों की पालना तथाकथित छंटनी के पूर्व की जानी अनिवार्य थी, यदि हां तो क्या पालना की गई?
- (3) क्या प्रार्थी यूनियन द्वारा वैधानिक रूप से स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया है और इसे स्टेटमेंट ऑफ क्लेम के आधार पर यह न्यायाधिकरण अधिनियम देने में सक्षम है?
- (4) क्या अप्रार्थी नियोजक संस्थान उद्योग की परिभाषा में आता है?

बिन्दु संख्या—4 का निर्णय

7. यह एक महत्वपूर्ण प्रश्न है कि अप्रार्थी संस्थान “उद्योग” की श्रेणी में आता है या नहीं? अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि अप्रार्थी संस्थान एक सरकारी विभाग है और उसका कार्य बलदेवसिंह के कथनानुसार केन्द्रीय सरकार के पशुओं के प्रजनन एवम् उन्नत नस्ल के धारणारकर सांड एवम् बछड़े पैदा करना है। सांड व बछड़ों के चारा व बीज पैदा करने के लिये एक हजार एकड़ भूमि में कृषि कार्य के लिये छोड़ी हुई है जिसमें चारा उगाना एवम् उससे सम्बन्धित कार्य किया जाता है और इसी काम के लिये प्रार्थीगण श्रमिकों को रखा गया था। विद्वान् अधिवक्ता का तर्क है कि इसके कारण अप्रार्थी संस्थान “उद्योग” की परिभाषा में नहीं आता है। मैं विद्वान अधिवक्ता के तर्क से सहमत नहीं हूँ। अप्रार्थी संस्थान का कार्य उन्नत नस्ल के सांड व बछड़े पैदा करना अवश्य है लेकिन जो उन्नत नस्ल के ये पशु पैदा किये जाते हैं उनका व्यावसायिक उपयोग भी किया जाता है या नहीं इस बारे में बलदेवसिंह मौन है। जाहिर है कि अप्रार्थी संस्थान सांड व बछड़े पैदा करके अपने संस्थान में इक्काटे नहीं कर सकता बल्कि उनका व्यवसायी उपयोग अवश्य होगा इसलिये अप्रार्थी संस्थान में व्यवसायिक गतिविधि का मौजूद होना प्रकट होता है। यह व्यवसायिक गतिविधि नियोजक

एवम् नियोजतागण के परस्पर व्यवस्थित प्रक्रिया के रूप में की जाती है इसलिये बंगलोर वाटर सप्लाई एण्ड मिक्सेज बोर्ड बनाम ए. राजप्पा; ए. आई. आर. 1978 (सुप्रीम कोर्ट) 548 के न्यायदृष्टांत में दिखाने गये दिना निर्देशों के प्रकाश में अप्रार्थी संस्थान “उद्योग” की श्रेणी में आना सम्भवित है।

बिन्दु संख्या—3 का निर्णय :

8. अब एक और महत्वपूर्ण प्रश्न बच जाता है कि क्या प्रार्थी का प्रतिनिधित्व जिस यूनियन के द्वारा किया गया है वह वैधानिक रूप से किया गया है और जिस प्रतिनिधि ने प्रार्थी का इस न्यायाधिकरण में प्रतिनिधित्व किया है वह प्रार्थी की ओर से ऐसा करने को अधिकृत था? इस सम्बन्ध में यूनियन के प्रतिनिधि ने मेरे सामने यह बहस की थी कि माननीय उच्च न्यायालय से यह प्रकरण इस न्यायाधिकरण में रिमाण्ड होकर प्राप्त हुआ है इसमें न्यायाधिकरण को अप्रार्थी द्वारा रखी गयी प्रारंभिक आपत्तियों पर भी निर्णय देना है इसलिये प्रारंभिक आपत्तियों पर प्रार्थी को साक्ष्य प्रस्तुत करने का अवसर दिया जाये। किन्तु माननीय उच्च न्यायालय के आदेश में इस प्रकरण का नये सिरे से निर्णय करने का ही निर्देश है साक्ष्य लेकर निर्णय करने का आदेश नहीं है। इसलिये प्रार्थी की ओर से प्रस्तुत किया गया यह तर्क माने जाने योग्य नहीं है। अप्रार्थी द्वारा ये प्रारंभिक आपत्तियां प्रारंभ में ही उठा दी गयी थी और इस न्यायाधिकरण ने दिनांक 25-10-96 को जो निर्णय दिया था उसमें इन आपत्तियों का विवरण भी है किन्तु उस पर निर्णय नहीं दिया गया था। प्रार्थीगण यदि अपना यह पक्ष उचित समझते तो उन बिन्दुओं पर वे पहले ही साक्ष्य प्रस्तुत करते। लेकिन उनके द्वारा पहले कोई साक्ष्य पेश नहीं की गयी है। माननीय उच्च न्यायालय के समक्ष भी इस प्रकार की प्रार्थना नहीं की गई है कि प्रार्थीगण इस बारे में साक्ष्य प्रस्तुत करना चाहते हैं इसलिये माननीय उच्च न्यायालय ने इस बारे में किसी प्रकार का निर्देश नहीं दिया है। अतः इन परिस्थितियों में साक्ष्य लेना आवश्यक नहीं था। इतना ही नहीं जब इस मामले में सुनवाई अंतिम रूप से दिनांक 10-10-96 को की जा रही थी तभी प्रार्थी पक्ष की तरफ से इस बिन्दु के समर्थन में एक प्रार्थनापत्र के साथ तीन दस्तावेजात पेश किये गये थे और प्रार्थी पक्ष ने उन दस्तावेजात की साक्ष्य में मानकर संतोष किया था। इसलिये प्रार्थी पक्ष ने जैसी भी साक्ष्य मुनासिब समझी वह पहले ही प्रस्तुत कर दी थी। अब ये दस्तावेजात साक्ष्य में ग्रहण है या नहीं यह अलग विषय है लेकिन प्रार्थी पक्ष अपनी ओर से साक्ष्य प्रस्तुत कर चुका था। माननीय उच्च न्यायालय के निर्देश न होने के कारण साक्ष्य लेना उचित नहीं मानते हुए प्रार्थी पक्ष की साक्ष्य नहीं ली गई।

9. अब मैं मूल प्रश्न की ओर लौटता हूँ। अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि प्रार्थी पक्ष की ओर से जो स्टेटमेंट ऑफ क्लेम पेश किया गया है वह शही आरत-भूषण आर्ष महामंत्री—बीकानेर डिविजन ट्रेड यूनियन

काऊन्सिल ब्रीकाणी डिविजन, बीकानेर की ओर से प्रस्तुत हुआ है इस पर श्री भारतभूषण धार्य के हस्ताक्षर भी हैं। इस स्टेटमेंट ऑफ क्लेम को देखने से यह प्रकट हुआ कि श्री भारतभूषण धार्य बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल का महामंत्री है। अधिनियम की धारा 36 में इस अधिनियम के अन्तर्गत किसी भी कार्यवाही में कर्मकार एवम् नियोजक का प्रतिनिधित्व किसके द्वारा किया जाएगा के कानून व्यवस्था प्रदान की गयी है। अधिनियम की धारा 36 (1) इस प्रकार के है; ओ कि कर्मकार से सम्बन्धित है :—

“यह कर्मकार जो विवाद में अशक्त है इस बात का हकदार होगा कि इस अधिनियम के अधीन की किसी भी कार्यवाही में उसका प्रतिनिधित्व :—

- (क) उस रजिस्ट्रीकृत व्यवसाय संघ की जिसका वह सदस्य है कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा ;
- (ख) व्यवसाय संघों के उस परिसंघ की जिससे वह खण्ड (क) में निर्दिष्ट व्यवसाय संघ संबद्ध है कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा ;
- (ग) जहाँ कि कर्मकार किसी व्यवसाय संघ का सदस्य नहीं है वहाँ उस उद्योग से जिसमें कर्मकार नियोजित है सम्बन्धित किसी व्यवसाय संघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा या उस उद्योग में नियोजित ऐसे अन्य कर्मकार द्वारा जो ऐसी रीति से प्राधिकृत है जैसे विहित की जाए ;

किन्तु फार्म।”

इस विषय आय प्राधिकार को अपने से अलग होता है कि इस अधिनियम के अन्तर्गत किसी भी कार्यवाही में कर्मकार का प्रतिनिधित्व उस रजिस्ट्रीकृत व्यवसाय संघ की ओर से किया जा सकता है जिसका कि कर्मकार सदस्य है। यह प्रतिनिधित्व व्यवसाय संघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा किया जा सकता है। प्रस्तुत मामले में यह बात साबित ही नहीं हुई है कि प्राचीन बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल का सदस्य है।

10. कर्मकार का प्रतिनिधित्व व्यवसाय संघों ने उस परिसंघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा किया जा सकता है जो धारा 36 (1) (क) में निर्दिष्ट व्यवसाय संघ से सम्बद्ध है। इसके अलावा जो कर्मकार किसी व्यवसाय संघ का सदस्य नहीं है वह उस उद्योग में जिसमें वह नियोजित है से सम्बन्धित किसी व्यवसाय की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा या उद्योग में नियोजित अन्य कर्मकार द्वारा अपना प्रतिनिधित्व करा सकता है।

11. विद्वान प्रतिनिधि ने दिनांक 10-10-98 को अपने प्रार्थनापत्र के साथ जो दस्तावेजात पेश किये हैं उनमें श्रम प्रवर्तन एवम् समझौता अधिकारी (केन्द्रीय) बीकानेर के

समक्ष प्रस्तुत किये गये प्रतिवेदन की फोटो प्रति है। इसमें केन्द्रीय पशु प्रजनन केन्द्र कर्मचारी का नाम भी उल्लेखित है और उसके किसी अध्यक्ष के हस्ताक्षर भी इस पर अंकित है। साथ ही श्री भारतभूषण के हस्ताक्षर महामंत्री बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल की हैसियत से दर्ज है। इसके अलावा इस पर प्रार्थीगण के हस्ताक्षर व अंगुष्ठ निशान भी अंकित है। दूसरा दस्तावेज श्रम प्रवर्तन अधिकारी बीकानेर के असफल वार्ता प्रतिवेदन की फोटो कापी है। तीसरा दस्तावेज केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस् कर्मचारी यूनियन के पंजीकरण प्रमाणपत्र की फोटो प्रति है। प्राचीन के विद्वान प्रतिनिधि का तर्क है कि केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस् कर्मचारी यूनियन एक रजिस्टर्ड संघ है जो बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल से सम्बद्ध है। प्राचीन पशु प्रजनन एवम् चारा उत्पादन फार्मस् कर्मचारी यूनियन के सदस्य है अतः बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल को प्रार्थीगण का प्रतिनिधित्व करने का अधिकार है। प्रथम तो ये फोटो प्रतियाँ समक्ष साक्ष्य के द्वारा दस्तावेज के रूप में साबित नहीं कराये हुए हैं इसलिये इनको साक्ष्य में पढ़ना भी उचित नहीं था। तर्क के तौर पर यदि हम इन दस्तावेजात को साक्ष्य में पढ़ भी लें तो अधिक से अधिक यही विवित होगा कि केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस् कर्मचारी यूनियन पंजीकृत व्यवसाय संघ है लेकिन अधिनियम की धारा 36 (1) (क) के अनुसार यह साबित नहीं है कि प्रार्थीगण इसके सदस्य हैं। इसी प्रकार अधिनियम की धारा 36 (1) (ख) के अनुसार साक्ष्य से यह साबित नहीं कराया गया है कि “केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस् कर्मचारी यूनियन” “बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल” से सम्बद्ध है। इसलिये बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल के महामंत्री द्वारा जो प्रतिनिधित्व किया गया है वह अधिनियम की धारा 36 (1) (क) और (ख) के अनुसार नहीं है। अब कुछ समय के लिये हम यह मान लें कि प्रार्थीगण किसी व्यवसाय संघ के सदस्य नहीं है तो भी वे अपना प्रतिनिधित्व किसी व्यवसाय संघ के पदाधिकारी या सदस्य से करवा सकते थे। लेकिन उसके लिये यह शर्त थी कि वे उस पदाधिकारी या सदस्य अथवा उस उद्योग में नियोजित कर्मचारी के पक्ष में अपना अधिकारपत्र साबित कराये, वह भी इस मामले में साबित नहीं हुआ है। अतः अधिनियम की धारा 36 (1) (ग) के अनुसार प्रार्थीगण का प्रतिनिधित्व उचित प्रकार से नहीं हुआ है। विद्वान प्रतिनिधि श्रमिकगण का यह भी तर्क है कि समझौता अधिकारी के समक्ष जो प्रतिवेदन वार्ता हेतु पेश किया गया था उन पर प्रार्थीगण के हस्ताक्षर एवम् अंगुष्ठ निशान थे इसलिये जब उन्होंने स्वयं ने ही विवाद प्रस्तुत कर दिया था तो प्रतिनिधित्व का प्रश्न अर्थहीन हो जाता है। किन्तु मैं उनके इस तर्क से भी सहमत नहीं हूँ। केवल मात्र हस्ताक्षर करने से श्री भारतभूषण धार्य द्वारा श्रमिकगण का प्रतिनिधित्व साबित नहीं होता है। विवाद पर चाहे कर्मकारों के हस्ताक्षर करा लिये गये हों लेकिन विवाद में प्रतिनिधित्व तो व्यवसाय संघ द्वारा किया गया है जिसका रजिस्टर्ड होना एवम् कर्मकारों से

सम्बद्ध होना तथा कर्मचारियों द्वारा अधिकृत होना साबित नहीं है। इसके अलावा न्यायाधिकरण के समक्ष प्रस्तुत किये गये स्टेटमेंट ऑफ क्लेम पर कर्मचारियों के हस्ताक्षर नहीं हैं। प्रार्थीगण का प्रतिनिधित्व समझौता कार्यवाही में तथा इस न्यायाधिकरण के समक्ष उचित रूप से नहीं किया गया है इसलिए केन्द्रीय सरकार द्वारा यह प्रसंग प्रेषित करना उचित नहीं था। ठीक इसी प्रकार से यह न्यायाधिकरण भी प्रार्थीगण के पक्ष में पंचाट जारी करने में इस आधार पर सक्षम नहीं है। इसके अलावा बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल का पंजीकृत होना भी साबित नहीं कराया गया है इसलिए प्रस्तुत मामले में प्रार्थीगण का प्रतिनिधित्व अवैध रूप से किया गया है और इसके कारण श्री भारतभूषण आर्य को पंचाट प्राप्त करने का कोई अधिकार नहीं है अतः पंचाट पारित नहीं किया जा सकता।

विन्दू संख्या—1 का निर्णय

12. यह प्रसंग पांच श्रमिकों सर्वश्री कालूराम पुत्र पूर्णराम प्रतापराम पुत्र श्री पूर्णराम, डूंगरसिंह पुत्र बचनसिंह राजकौर पत्नी श्री पूर्णराम एवम् संतो देवी पत्नी श्री बचन सिंह की सेवा मुक्ति के विवाद से संबंधित है। इन श्रमिकगण की ओर से यूनियन द्वारा एक ही क्लेम विवरण पेश कर प्रार्थीगण श्रमिक का अप्रार्थी संस्थान में 1-4-83 से कार्यरत होना और 1-4-89 से बिना कोई कारण काम पर नहीं लेने तथा जबानी आदेश से सेवा मुक्त करना बताया है और इस सेवामुक्ति को अधिनियम की धारा 2(00) में छंटनी करना कहा गया है। यूनियन द्वारा प्रस्तुत इस क्लेम विवरण के समर्थन में श्रमिकगण कालूराम प्रतापराम सन्तोदेवी, राजकौर, डूंगरसिंह ने अपने-अपने शपथपत्र पेश किये हैं तथा रामप्यारेलाल ने भी अपना शपथ प्रार्थीगण के समर्थन में पेश किया है। प्रार्थीगण ने अपने-अपने शपथपत्रों में एक स्वर में अपनी नियुक्ति अप्रार्थी संस्थान में 1-4-83 को होना और 31-3-89 तक निरन्तर कार्य करना व दिनांक 1-4-89 को अकारण सेवामुक्त करना कहा है और दस्तावेजात प्रदर्श डब्ल्यू. 1 व 2 प्रदर्शित कराया है। इन प्रार्थीगण का समर्थन करने हुए गवाह रामप्यारेलाल ने अपना शपथपत्र पेश किया है। रामप्यारेलाल ने अपने शपथपत्र में यह भी अंकित कराया है कि कर्मचारी स्वयं कभी अनुपस्थित नहीं रहे बल्कि नियोजक ने सेवा से पृथक् किया, सेवामुक्ति के बाद उसने अप्रार्थी नियोजक से बातचीत की परन्तु नियोजक में उन्हें वापिस लेने को राजी नहीं हुआ।

14. प्रार्थी यूनियन द्वारा प्रस्तुत इस साक्ष्य के आधार पर विद्वान प्रतिनिधि प्रार्थीगण की ओर से बहस में बताया गया है कि दिनांक 1-4-89 से सेवामुक्त करना छंटनी है। इसके विपरीत अप्रार्थी नियोजक की ओर से श्री बलदेवसिंह कृषि सहायक केन्द्रीय पशु प्रजनन फार्म मुरतगढ़ ने शपथपत्र पेश कर शपथ कथन किया है कि नियमित कर्मचारी कार्य को पूरा नहीं कर सकते इसलिये दैनिक वेतन भोगी श्रमिकों को निश्चित कार्य करने के बाद अधिक समय तक नियोजन में नहीं रख सकते और

इसी तरह से अन्य कृषि मानिक कृषि कार्य के लिये कुछ समय के लिये मजदूर रखते हैं। काम समाप्त होने पर यह स्वतः ही चले जाते हैं क्योंकि उनका कार्य विशेष अवधि के लिये था। इस साक्षी के अनुसार श्रमिक प्रताप सिंह ने 1985 में कुछ अर्से तक काम किया और उसके बाद स्वतः ही चला गया। राजकौर ने 1985 में कुछ अर्से तक काम किया और बाद में काम न होने के कारण स्वतः ही चली गयी। कालूराम ने 1987 में 203 दिन काम किया, संतो ने 1985 में कुछ दिन काम किया था। ये सारे कामगार काम समाप्त होने के बाद अपने आप घर चले गये थे ये सभी कृषि मजदूर हैं और कई स्थानों पर जहाँ भी काम मिले कृषि कार्य करते रहते हैं और काम समाप्त होने पर स्वतः ही चले जाते, इनको न तो नियमित रूप में काम पर लेने के लिये आदेश जारी किया गया और न हटने के लिये आदेश जारी किया गया, वे स्वतः ही काम समाप्त होने के बाद वापस पर से काम न होने के कारण चले गये... उन्होंने 1989 तक कोई काम नहीं किया, प्रताप सिंह, संतो ने 1985 के बाद और कालू ने 1987 के बाद कभी कोई कार्य इस फार्म पर नहीं किया, 1-4-89 से श्रमिकों को सेवामुक्त करना गलत है। नियोजक का यह साक्षी जिरह में यह स्वीकार करता है कि "नियुक्ति विशेष अवधि के लिये व विशेष सीजन के लिये की गयी थी इसके लिये कोई आदेश जारी नहीं किये गये थे, ... हमने कालूराम, राजकौर, प्रताप, शांति आदि को सीजनल काम के लिये रखा था जैसे पानी देना, फसल काटना, पानी के खाले तैयार करना आदि। अब कहा कि उपरोक्त काम के लिये हमारे फार्म में नियमित कर्मचारी भी रखे गये हैं लेकिन कार्य को जल्दी निपटाने के लिये दैनिक वेतन भोगी कर्मचारियों को रखा जाता है, आज जबानी यदि नहीं है किस श्रमिक को किस सीजन व किस अवधि के लिये रखा, श्रमिक स्वयं ही काम छोड़ कर चला गया था तब उसके विरुद्ध अनु-पस्थिति के बारे में कोई नोटिस की कार्यवाही नहीं की... भारत सरकार ने 5-11-94 के आदेश से दैनिक वेतन भोगी मजदूरों को टैम्पेरी स्टैंटस में ले लिया है... यह कहना गलत है कि श्रमिकों ने 240 दिन से ज्यादा लगातार हमारी संस्था में काम किया हो अब कहा कि श्रमिकों ने टुकड़ों में काम किये हैं। नियोजक द्वारा प्रस्तुत इसी साक्ष्य को आधार बनाते हुए विद्वान अधिवक्ता नियोजक की ओर से बहस थी कि श्रमिकों ने सीजनल कार्य निश्चित अवधि के लिये किया है और काम समाप्त होने पर स्वयं छोड़कर चले गये। अतः श्रमिकों की यह तथाकथित सेवामुक्ति छंटनी नहीं है और न 1-4-89 तक श्रमिकों का कार्य करना ही प्रमाणित है।

15. दोनों पक्षों की बहस पर मैंने विचार किया। एक ओर श्रमिकगण ने अपने शपथपत्रों में यह कहा है कि उन्होंने 1-4-83 से 1-4-89 तक लगातार कार्य किया है। दूसरी ओर, अप्रार्थी के गवाह बलदेव सिंह ने प्रत्येक श्रमिक के लिये अलग-अलग अवधि में काम करने का बताया गया

है जिसका उल्लेख ऊपर किया जा चुका है। एक और प्रार्थीगण (श्रमिकों) के कथन का समर्थन रामप्यारेलाल गवाह के शपथपत्र से होता है। जिसमें कि बड़े ही स्पष्ट शब्दों 1-3-83 से 31-3-89 तक अथवा 1-4-89 तक लगातार काम करने का कड़ा है। मगर दूसरी ओर बलदेव सिंह का शपथपत्र अस्पष्ट है। उसने प्रतापसिंह के लिये कहा है कि प्रताप सिंह ने 1984 में कुछ दिन काम किया और 1985 में कुछ समय के लिये काम किया फिर खुद छोड़कर चला गया। राजकौर ने 1984 में 115 दिन तथा 1985 में कुछ समय तक काम किया बाद में स्वयं ही काम छोड़कर चली गयी। इसी प्रकार की साक्ष्य बलदेवसिंह ने अन्य श्रमिकगण के लिये भी दी है। अप्रार्थी के गवाह बलदेव सिंह की इस साक्ष्य में यह बात नहीं आयी है कि जिन श्रमिकों ने कुछ समय के लिये या कुछ अर्से के लिये काम किया था वह कुछ अर्सा किस तिथि से किस तिथि तक था और कितने दिन का था। ऐसा लगता है कि इस गवाह ने पूरी बात को छुपाते हुए साक्ष्य दी है। आखिरकार यह गवाह एक सरकारी संस्थान का अधिकारी है और उस सरकारी संस्थान में इन प्रार्थीगण के कार्य से सम्बन्धित अभिलेख भी रहता है तो उसका कर्तव्य था कि वह उस अभिलेख को प्रस्तुत करता और यह साबित कर देता कि किसी भी कलेण्डर वर्ष में इन श्रमिकगण ने 240 कार्य दिवस काम नहीं किया। केवल यह कह देना कोई अर्थ नहीं रखता है कि अमुक श्रमिक ने कुछ अर्से तक काम किया था। इसलिये प्रार्थीगण जो कि निरक्षर अंगूठा छाप श्रमिक हैं उनके मुकाबले में अप्रार्थी संस्थान के इस अधिकारी की साक्ष्य अस्पष्ट और भ्रामक है। इसलिये इसकी साक्ष्य पर विश्वास नहीं किया जा सकता। इसकी बजाय प्रार्थीगण की साक्ष्य विश्वास योग्य है, उनकी साक्ष्य से यह बात साबित होती है कि उनमें से प्रत्येक श्रमिक ने एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य किया था जिनकी साक्ष्य का समर्थन रामप्यारेलाल गवाह की साक्ष्य से भी होता है। अतः प्रार्थीगण का अधिनियम की धारा 25-बी के अनुसार निरन्तर सेवारत कर्मकार होना साबित है। प्रार्थीगण को मौखिक आदेश से सेवामुक्त किया गया है अतः उनकी सेवामुक्ति अधिनियम की धारा 2 (00) के अन्तर्गत किसी अपवाध में न आने के कारण छंटनी की श्रेणी में आती है। अप्रार्थी की ओर से यह कहने की चेष्टा की गयी है कि प्रार्थीगण को एक विशेष अवधि के लिये और एक विशेष कार्य के लिये लगाया गया था लेकिन इसके लिये कोई विशेष आदेश जारी नहीं हुए हैं, यह बात बलदेवसिंह ने अपने बयान में स्वीकार की है इसलिये प्रार्थीगण का विशेष कार्य और विशेष अवधि के लिये नियुक्त होना साबित नहीं है। अप्रार्थी की ओर से यह कहने की भी चेष्टा की गयी है कि प्रार्थीगण स्वयं काम छोड़कर चले गये थे। लेकिन, बलदेव सिंह जिसने शपथ पर यह बात बयान की है, अपनी जिरह में स्वीकार करता है कि इस प्रकार से काम छोड़कर जाने पर प्रार्थीगण की कोई नोटिस नहीं दिये गये थे। अतः श्रमिकगण का स्वयं काम छोड़कर जाना साबित नहीं है बल्कि यह साबित है कि उन्हें दिनांक 31-3-89 के बाद अर्थात् 1-4-89

से काम पर लेना बन्द कर दिया गया था इस प्रकार अप्रार्थी द्वारा उनकी छंटनी कर दी गयी।
बिन्दु सं. 2 :—

16. यह तथ्य निर्विवादित है कि प्रार्थीगण को सेवा मुक्त करने के पूर्व न तो अधिनियम की धारा 25-एफ के अन्तर्गत एक माह का नोटिस दिया गया था न उसके बदले वेतन दिया गया और न ही कोई सुआवजा दिया गया था। इसलिये अप्रार्थी द्वारा अधिनियम की धारा 25-एफ की पालना नहीं की गयी है। वरिष्ठता सूची का प्रकाशन भी नहीं हुआ है इसलिये प्रार्थीगण की सेवामुक्ति अवैध है।

पंचाट

17. पानस्वरूप इस विवाद को इस प्रकार से प्रारम्भित किया जाता है कि सर्वश्री कालूराम पुत्र श्री पूर्णराम, प्रताप राम पुत्र श्री पूर्णराम, श्रीमती राजकौर पत्नी श्री पूर्णराम, श्री इंगरसिंह पुत्र बचनसिंह एवम् श्रीमती संतो पत्नी बचन सिंह की सेवामुक्ति के बारे में जो विवाद अधि-निर्णयार्थ पेश हुआ था उसमें उनका प्रतिनिधित्व अधिनियम की धारा 36 के अनुसार नहीं किया गया है इसलिये इस न्यायाधिकरण द्वारा उनके पक्ष में कोई पंचाट नहीं दिया जा सकता।

उक्त पंचाट अधिनियम की धारा 17 (1) के अन्तर्गत केन्द्रीय सरकार को प्रकाशनार्थ भेजा जाये।

18. आज्ञा आज दिनांक 8-10-98 को सरे इजलास लिखाई व सुनाई जाकर हस्ताक्षरित की गई।

ह./-

गुलाम हुसैन, न्यायाधीश

नई दिल्ली, 6 नवम्बर, 1998

का.आ. 2476—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, केन्द्रीय पशु प्रजनन केन्द्र, सूरतगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, बीकानेर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-98 को प्राप्त हुआ था।

[सं. एल-42012/119/93—आई आर (डीयू)]

के.बी.बी. उष्णी, अव्वर सचिव

New Delhi, the 6th November, 1998

S.O. 2476.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Bikaner as shown in the Annexure, in the industrial dispute between

the employers in relation to the management of Director, Central Cattle Breeding Centre, Suratgarh and their workman, which was received by the Central Government on 6-11-98.

[No. L-42012/119/93-IR(DU)]

K. V. B. UNNY, Under Secy.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, बीकानेर

नं. मु. सी.आई.टी. रैफरेंस सं. 3/1994

सुभाष यादव मार्फत श्री भारतभूषण आर्य-महामंत्री,
बीकानेर डिब्बीजन ट्रेड यूनियन काउन्सिल, 1 खजांची
बिल्डिंग, बीकानेर

—प्रार्थी/श्रमिक

बनाम

निदेशक, केन्द्रीय पशु प्रजनन केन्द्र सुरतगढ़ —अप्रार्थी/
नियोजक

रैफरेंस अन्तर्गत धारा 10(1)(घ), औद्योगिक विवाद
अधिनियम, 1947

न्यायाधीश-श्री गुलाम हुसैन, आर.एच.जे.एम.
उपस्थिति :—

1. श्री भारतभूषण आर्य, श्रमिक प्रतिनिधि
2. श्री उत्तम चन्द गुप्ता, नियोजक प्रतिनिधि

अधिनिर्णय

दिनांक 8 अक्टूबर, 1998

भारत सरकार, नई दिल्ली ने “औद्योगिक विवाद अधिनियम, 1947” जिसे अब के पश्चात् सिर्फ अधिनियम कहा गया है की धारा 10 की उपधारा (1) के खण्ड (घ) के अधीन जारी आदेश क्रमांक 42012/119/93-आई.आर. (डी.यू.) दिनांक 30-9-94 के द्वारा प्रेषित इस रैफरेंस के अन्तर्गत निम्न विवाद अधिनिर्णयार्थ इस न्यायाधिकरण में प्रेषित किया था।

“Whether the action of the management of Central Pasu Prajnan Kendra Suratgarh in terminating the service of Shri Subhash Yadav s/o Shri Ramkharakh Yadav is proper, legal and justified ? If not, to what relief the workman is entitled ?”

2. प्रार्थी सुभाष यादव जिसे अब के पश्चात् सिर्फ “प्रार्थी” कहा गया है की ओर से यूनियन द्वारा प्रस्तुत क्लेम विवरण के अनुसार संक्षिप्त तथ्य इस प्रकार है कि यह प्रार्थी अप्रार्थी संस्थान में 1-12-78 को नियुक्त हुआ था। और एक पुराना व स्थाई कर्मचारी था, उसने अपना सेवाकाल एक वर्ष व 240 दिनों से अधिक व निरन्तर सेवाकाल पूरा कर लिया था और वह एक औद्योगिक कर्मकार था तथा अधिनियम की धारा 25-एफ, 25-जी. व 25-एच. के अन्तर्गत देय लाभ प्राप्त करने का अधिकारी है। अप्रार्थी ने उसे दिनांक 29-10-87 से

अपनी जुवानी आदेश में सेवामुक्त कर दिया और सेवा-मुक्त करने में पहले कोई बरिष्ठता सूची का प्रकाशन नहीं किया गया तथा कोई नोटिस या एक माह का वेतन एवं कुल सेवा अवधि का छंटनी मुआवजा नहीं दिया, न छंटनी की सूचना राज्य सरकार को दी। अंत में श्रमिक की इस सेवामुक्ति को अधिनियम की धारा 25-बी, 25-एफ., 25-जी, एवम् 25-एच. के उल्लंघन में बताते हुए अवैध होने के कारण निरस्त किये जाने और सेवामुक्ति दिनांक 29-10-87 से पुनः सेवा में सभी देय लाभों सहित बहाल किये जाने की प्रार्थना की है।

3. अप्रार्थी नियोजक द्वारा प्रस्तुत जबाब में प्रारंभिक आपत्तियों में कहा है कि क्लेम प्रार्थी स्वयं ने पेश नहीं किया है, सारी कार्यवाही भारतभूषण आर्य ने उसकी तरफ से की है जो न्यायसंगत व उचित नहीं है जिसके हक में कोई अधिकार पत्र भी उसने निष्पादित नहीं किया है और इसके अलावा ऐसा कोई सबूत भी पेश नहीं किया है कि यह श्रमिक उसकी किसी यूनियन का सदस्य है, बीकानेर ट्रेड यूनियन काउन्सिल कोई मान्यता प्राप्त ट्रेड यूनियन नहीं है —न अप्रार्थी ने इसे मान्यता दी है। इस प्रकार अप्रार्थी नियोजक के अनुसार कोई विवाद है ही नहीं, इसलिये इस संबंध में जो भी कार्यवाही हुई है वह गलत है, अप्रार्थी संस्थान “उद्योग” की परिभाषा में नहीं आता है और इस पर अधिनियम के प्रावधान लागू नहीं हैं।

4. मदवार उत्तर प्रस्तुत करते हुए अप्रार्थी नियोजक ने मुख्यतया बताया है कि श्रमिक अप्रार्थी नियोजक के अन्तर्गत कार्यरत कर्मचारी नहीं है, उसे दैनिक वेतन भोगी श्रमिक के रूप में निश्चित अवधि के लिये निश्चित कार्य के लिये सीजन पर लगाना व 1987 के बाद कभी काम पर नहीं आना बताया है और 28-10-87 के बाद काम खुद ही छोड़कर चला जाना कहा है। अंत में यह भी कि प्रथम बार श्रम प्रवर्तन अधिकारी के समक्ष 1993 में आवेदन पत्र प्रस्तुत करना, भैस पाल कर अपना दूध का धन्धा करना कहते हुए कहा है कि वह पिछला वेतन प्राप्त करने का अधिकारी नहीं है। अन्य सभी तथ्यों को अस्वीकार किया गया है। और क्लेम खारिज करने की प्रार्थना की गई है।

5. साक्ष्य में श्रमिक सुभाष ने अपना और सहकर्मी रामप्यारेलाल का शपथपत्र पेश किया जिनसे नियोजक द्वारा जिरह की गयी है, इसके विपरीत अप्रार्थी की ओर से बलदेवसिंह ने अपना शपथपत्र प्रस्तुत किया जिससे प्रार्थी की ओर से जिरह की गयी है। दस्तावेज पेश हुए।

6. दोनों पक्षों की साक्ष्य लेने के उपरान्त 14 न्यायाधिकरण ने दिनांक 25-10-96 को इस प्रकरण का अधिनिर्णय प्रार्थी के पक्ष में करते हुए अर्बाई जारी कर दिया। अर्बाई जारी होने के उपरान्त इस निर्णय के विरुद्ध माननीय राजस्थान उच्च न्यायालय में रिट याचिका प्रस्तुत

की गयी। इसके साथ दो अन्य प्रकरणों का भी इसी दिन निर्णय हुआ था और उनके विरुद्ध भी रिट याचिकाएं प्रस्तुत हुई थीं। दिनांक 9-8-97 को माननीय राजस्थान उच्च न्यायालय ने इन रिट याचिकाओं का निर्णय करते हुए यह समुक्ति प्रदान की कि इस न्यायाधिकरण ने अप्रार्थी नियोजक द्वारा अपने जवाब में उठाई गई दो प्रारंभिक आपत्तियों पर कोई निर्णय नहीं दिया गया है जबकि वे दोनों प्रारंभिक आपत्तियां इस प्रकरण के न्यायपूर्ण निस्तारण के लिए अत्यन्त आवश्यक थीं। माननीय उच्च न्यायालय ने उस आधार पर इस न्यायाधिकरण द्वारा पारित किया गया अवार्ड निरस्त करने हुए यह मामला नये सिरे से अधिनियम हेतु इस न्यायाधिकरण को रिमाण्ड करते हुए यह निर्देश दिया है कि न्यायाधिकरण समस्त प्रकरण का नये सिरे से अधिनियम करे जिनमें प्रार्थी नियोजक द्वारा उठाई गई प्रारंभिक आपत्तियों का भी निर्णय किया जावे। माननीय उच्च न्यायालय ने ऐसा करने के लिये इस न्यायाधिकरण को आदेश प्रस्तुती से 6 सप्ताह का समय प्रदान किया था। प्रार्थी श्रमिक ने दिनांक 23-8-98 को माननीय उच्च न्यायालय के उक्त आदेशों की नकलें प्रस्तुत करते हुए इस प्रकरण का निर्णय करने की प्रार्थना की है। अप्रार्थी नियोजक को नोटिस दिया गया और माननीय उच्च न्यायालय से निस्तारण का समय बढ़ाने की प्रार्थना करते हुए प्रार्थनापत्र लिया गया दोनों पक्षों की बहस सुनी गयी एवम् पत्रावली का अवलोकन किया गया। मेरे सामने प्रस्तुत मामले में निम्नलिखित विचारणीय बिन्दु हैं :

- (1) श्रमा प्रार्थी श्रमिक की सेवामुक्ति छंटनी है ?
- (2) श्रमा अधिनियम की धारा 25-एफ एवम् 25-जी के आश्रपक प्रावधानों की पालना तथा कथित छंटनी के पूर्व की जानी अनिवार्य थी ? यदि हां तो क्या पालना की गई ?
- (3) क्या प्रार्थी यूनियन द्वारा वैधानिक रूप से स्टेटमेंट ग्राफ क्लेम प्रस्तुत किया गया है और इस स्टेटमेंट ग्राफ क्लेम के आधार पर यह न्यायाधिकरण अधिनियम देने में सक्षम है ?
- (4) क्या अप्रार्थी नियोजक संस्थान उद्योग की परिभाषा में आता है ?

बिन्दु सं० 1 का निर्णय

7. इस बारे में प्रार्थी मुभाष यादव का जपथ पर कथन है कि उसकी नियुक्ति अप्रार्थी संस्थान में श्रमिक के पद पर 1-12-78 को हुई थी और उसने 28-10-87 तक काम किया था। दिनांक 28-10-87 से उसको सेवापूषक कर दिया गया था। ऐसा करते वक्त न तो कोई नोटिस दिया गया न नोटिस के बदले कोई वेतन और ना ही छंटनी का मुआवजा दिया गया था। अप्रार्थी ने वरिष्ठता सूची का प्रकाशन भी नहीं किया तथा उसकी सेवा मुक्ति के बाद नये व्यक्तियों को नियुक्तियां भी दी गईं। यूनियन की ओर से नियोजक को नोटिस दिया गया जो प्रदर्श ७ब्लू. 1 है और नियोजक का उत्तर प्रदर्श ७ब्लू. 2 है। राम प्यारे

लाल प्रार्थी की ओर से प्रस्तुत दूसरा गवाह है जिनसे प्रार्थी के कथन का समर्थन किया है। इसके खण्डन में बलदेव सिंह का कथन है कि वह अप्रार्थी संस्थान में कृषि सहायक के पद पर 1971 के अक्टूबर में नियुक्त है, इस संस्थान में नियमित कर्मचारी रखे हुए हैं लेकिन सीजन में कार्य अधिक होने पर दैनिक वेतन भोगी कर्मचारियों को भी रखना अनिवार्य होता है। मुभाष यादव को कुछ अवधि के लिये समय-समय पर 28-10-87 तक काम पर रखा था। प्रार्थी ने सर्वप्रथम 31-3-93 को प्रदर्श एम 1 के द्वारा अपना विवाद उठाया था। सन् 1990 से केन्द्रीय सरकार ने दैनिक वेतन भोगी कर्मचारियों को रखना बन्द कर दिया है।

8. दोनों पक्षों की साक्ष्य पढ़ने पर इतनी बात स्पष्ट है कि प्रार्थी की नियुक्ति एवम् सेवामुक्ति दोनों ही मौखिक आदेशों के द्वारा की गयी हैं। प्रार्थी ने अपनी नियुक्ति तिथि 1-12-78 बतायी है जबकि बलदेव सिंह ने प्रार्थी की नियुक्ति की तिथि के बारे में कुछ नहीं कहा है इसलिये प्रार्थी के कथन पर विश्वास करते हुए यही माना जायेगा कि प्रार्थी की नियुक्ति तिथि 1-12-78 को हुई थी और उसने 28-10-87 तक काम किया। प्रार्थी ने अपने बयान में कहा है कि उसने इस अवधि में लगातार सेवारत रहते हुए कार्य किया है जबकि बलदेव सिंह का कथन है कि प्रार्थी ने इस अवधि में कभी-कभी कार्य किया है। प्रार्थी एक अशिक्षित मजदूर है जिसको अपना हस्ताक्षर करने भी नहीं आता है। उसका जपथ पर बयान है कि उसने 1-12-78 से 29-10-87 तक लगातार कार्य किया जबकि बलदेव सिंह का कथन है कि उसने कभी-कभी काम किया। लेकिन, बलदेव सिंह ने यह नहीं कहा है कि प्रार्थी ने कब-कब काम नहीं किया है। बलदेव सिंह का कथन बहुत ही अस्पष्ट और आशंक है। बलदेव सिंह एक सरकारी विभाग में अधिकारी के पद पर नियुक्त था वह अभिलेख प्रस्तुत करके यह बता सकता था कि प्रार्थी ने कब-कब काम नहीं किया लेकिन उसके द्वारा ऐसा नहीं किया गया है इसलिये यही माना जायेगा कि प्रार्थी ने 1-12-78 से 29-10-87 तक लगातार कार्य किया। इस प्रकार प्रार्थी द्वारा अप्रार्थी संस्थान में किसी भी एक वर्ष में 240 दिन से अधिक काम करना साबित है।

9. बलदेव सिंह का यह कथन है कि प्रार्थी 28-10-87 के बाद स्वयं काम छोड़कर चला गया था। लेकिन इस बारे में उसे कोई नोटिस दिया गया हो-ऐसा प्रकट नहीं होता है इसलिये प्रार्थी का जपथ पत्र दिया गया यह कथन माने जाने योग्य है कि उसे 29-10-87 से काम पर लेना बन्द कर दिया गया। प्रार्थी के कथन का समर्थन राम प्यारे लाल यादव ने भी किया है।

10. बलदेव सिंह ने अपने कथन में यह स्वीकार किया है कि प्रार्थी को सीजनल काम जैसे कि पानी लगाना, फसल काटना, पानी का खाला तैयार करना, चारे के बीज का उत्पादन करना एवम् उसको काटना इत्यादि काम

के लिये लगाया था। अतः यह नहीं कहा जा सकता कि प्रार्थी का स्टेटस अथवा उसकी हैसियत काम के संबंध में अन्य श्रमिकों से भिन्न हो। अप्रार्थी की ओर से यह कहने की चेष्टा की गयी है कि प्रार्थी को एक विशेष अवधि के लिये एक विशेष कार्य के लिये लगाया गया था। लेकिन, इस बारे में कोई लिखित आदेश पेश नहीं किया गया है इसलिये यह बात माने जाने योग्य ही नहीं है कि प्रार्थी को एक विशेष कार्य के लिये विशेष अवधि तक ही नियुक्त किया गया। प्रार्थी का एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य करना साबित है अतः अधिनियम की धारा 25-बी के अनुसार उसका निरन्तर सेवारत कर्मचारी होना भी साबित है। प्रार्थी को मौखिक आदेश से सेवामुक्त किया गया है। निश्चित रूप से उसकी यह सेवा मुक्ति अधिनियम की धारा 2(00) के अंतर्गत किसी अपवाद में आने के कारण छंटनी की श्रेणी में ही आती है। अतः प्रार्थी को छंटनी के तौर पर सेवामुक्त किया गया है।

बिन्दू संख्या 2 का निर्णय

11. यह तथ्य निव्विवादित है कि प्रार्थी को सेवामुक्त करने के पूर्व न तो अधिनियम की धारा 25-एफ के अंतर्गत एक माह का नोटिस दिया गया था न उसके बदले वेतन दिया गया और न ही कोई मुआवजा दिया गया था। इस लिये अप्रार्थी द्वारा अधिनियम की धारा 25-एफ की धारणा नहीं की गयी है। वरिष्ठता सूची का प्रकाशन भी नहीं हुआ है इसलिये प्रार्थी की सेवामुक्ति अवैध है।

बिन्दू संख्या 4 का निर्णय

12. यह प्रश्न महत्वपूर्ण है कि अप्रार्थी संस्थान "उद्योग" की श्रेणी में आता है या नहीं। अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि अप्रार्थी संस्थान एक सरकारी विभाग है और उसका कार्य बलदेवसिंह के कथनानुसार केन्द्रीय सरकार के पशुओं के प्रजनन एवम् उन्नत नस्ल के धारण करने सांड एवम् बछड़े पैदा करना है। सांड व बछड़ों के लिए धारा व बीज पैदा करने के लिए एक हजार एकर भूमि कृषि कार्य के लिए छोड़ी हुई है जिसमें चारा उगाना एवम् उससे सम्बन्धित कार्य किया जाता है और इसी काम के लिए प्रार्थी को रखा गया था। विद्वान अधिवक्ता का तर्क है कि इसके कारण अप्रार्थी संस्थान "उद्योग" की परिभाषा में नहीं आता है। मैं विद्वान अधिवक्ता के तर्क से सहमत नहीं हूँ। अप्रार्थी संस्थान का कार्य उन्नत नस्ल के सांड व बछड़े पैदा करना अवश्य है लेकिन जो उन्नत नस्ल के ये पशु पैदा किये जाते हैं उनका व्यवसायिक उपयोग भी किया जाता है या नहीं इस बारे में बलदेवसिंह यौन है। जाहिर है कि अप्रार्थी संस्थान सांड व बछड़े पैदा करके अपने संस्थान में इकट्ठे नहीं कर सकता बल्कि उनका व्यवसायी उपयोग अवश्य होगा इसलिए अप्रार्थी संस्थान में व्यवसायिक गतिविधि का मौजूद होना प्रकट होता है। यह व्यवसायिक गतिविधि नियोजक एवम् नियोक्तागण के परस्पर व्यवस्थिति प्रक्रिया के रूप में की जाती है इसलिए बैंगलोर वाटर सप्लाई एण्ड सिवरेज बोर्ड बनाम ए. राजप्पा—ए. आर्. आर. 1978 (सुप्रीम कोर्ट) 548 के न्यायवृष्टांत में विख्यात गये विज्ञान-निर्देशों के प्रकाश में अप्रार्थी संस्थान "उद्योग" की श्रेणी में आता साबित है।

बिन्दू संख्या-3 का निर्णय

13. अब एक और महत्वपूर्ण प्रश्न बच जाता है कि क्या प्रार्थी का प्रतिनिधित्व जिस यूनियन के द्वारा किया गया

है वह वैधानिक रूप से किया गया है और जिस प्रतिनिधि ने प्रार्थी का इस न्यायाधिकरण में प्रतिनिधित्व किया है वह प्रार्थी की ओर से ऐसा करने को अधिकृत था? इस सम्बन्ध में यूनियन के विद्वान प्रतिनिधि ने मेरे सामने यह बहस की थी कि माननीय उच्च न्यायालय से यह प्रकरण इस न्यायाधिकरण में रिमाण्ड होकर प्राप्त हुआ है इसमें इस न्यायाधिकरण को अप्रार्थी द्वारा रखी गयी प्रारंभिक आपत्तियों पर भी निर्णय देना है इसलिए प्रारंभिक आपत्तियों पर प्रार्थी को साक्ष्य प्रस्तुत करने का अवसर दिया जाये। किन्तु, माननीय उच्च न्यायालय के आदेश में इस प्रकरण का नये सिरे से निर्णय करने का ही निर्देश है साक्ष्य लेकर निर्णय करने का आदेश नहीं है। इसलिए प्रार्थी की ओर से प्रस्तुत किया गया यह तर्क माने जाने योग्य नहीं है अप्रार्थी द्वारा ये प्रारंभिक आपत्तियाँ प्रारंभ में ही उठायी गयी थी और इस न्यायाधिकरण ने दिनांक 25-10-96 को जो निर्णय दिया था उसमें इन आपत्तियों का विवरण भी है किन्तु उस पर निर्णय नहीं दिया गया था। प्रार्थी यदि अपना यह पक्ष उचित समझता तो इन बिन्दुओं पर वह पहले ही साक्ष्य प्रस्तुत करता। लेकिन, प्रार्थी द्वारा पहले कोई साक्ष्य पेश नहीं की गयी। माननीय उच्च न्यायालय के समक्ष भी इस प्रकार की प्रार्थना नहीं की गई है कि प्रार्थी इस बारे में साक्ष्य प्रस्तुत करना चाहता है इसलिए माननीय उच्च न्यायालय ने इस बारे में किसी प्रकार का निर्देश नहीं दिया है। अतः इन परिस्थितियों में साक्ष्य लेना आवश्यक नहीं था। इतना ही नहीं जब इस मामले में सुनवाई अंतिम रूप से दिनांक 25-10-96 को की जा रही थी तभी प्रार्थी पक्ष की ओर से इस बिन्दु के समर्थन में एक प्रार्थना-पत्र के साथ तीन दस्तावेजों का पेश किए गये थे और प्रार्थी ने उन दस्तावेजों को साक्ष्य में मानकर स्वीकार किया था। इसलिए प्रार्थी ने जैसी भी साक्ष्य मुनासिब समझी वह पहले प्रस्तुत कर दी थी। अब, वे दस्तावेज साक्ष्य में ग्राह्य है या नहीं यह अलग विषय है लेकिन प्रार्थी अपनी ओर से साक्ष्य प्रस्तुत कर चुका था। माननीय उच्च न्यायालय के निर्देश न होने के कारण साक्ष्य लेना उचित नहीं मानते हुए प्रार्थी पक्ष की साक्ष्य नहीं ली गई।

14. अब, मैं मूल प्रश्न की ओर लौटता हूँ। अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि प्रार्थी की ओर से जो स्टेटमेंट ऑफ बलेम पेश किया गया है वह श्री भारतभूषण आर्य, महा-मन्त्री बीकानेर डिविजन ट्रेड यूनियन काउन्सिल खजान्ची बिटिंग बीकानेर की ओर से प्रस्तुत हुआ है, इस पर श्री भारतभूषण आर्य के हस्ताक्षर भी हैं। इस स्टेटमेंट ऑफ बलेम को देखने से यह प्रकट हुआ है कि भारतभूषण आर्य बीकानेर डिविजन ट्रेड यूनियन काउन्सिल का महामन्त्री है। अधिनियम, की धारा 36 में इस अधिनियम के अंतर्गत किसी भी कार्यवाही में कर्मचार एवम् नियोजक का प्रतिनिधित्व जिसको द्वारा किया जाएगा, के बाबत व्यवस्था प्रदान की गयी है। अधिनियम की धारा 36(1) इस प्रकार से है, जो कि कर्मचार से सम्बन्धित है :-

“वह कर्मचार जो विवाद में पक्षकार है इस बात का हवाला होगा कि इस अधिनियम के अधीन की किसी भी कार्यवाही में उसका प्रतिनिधित्व—

(क) उस रजिस्ट्रीकृत व्यवसाय संघ की, जिसका वह सदस्य है, कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा,

(ख) व्यवसाय संघों के उस परिसंघ की, जिससे वह खंड (क) में निर्दिष्ट व्यवसायसंग संबद्ध है, कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा,

(ग) जहाँ कि कर्मकार किसी व्यवसाय संघ का सदस्य नहीं है वहाँ उस उद्योग से, जिसमें कर्मकार नियोजित है, संसक्त किसी व्यवसाय संघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा या उस उद्योग में नियोजित ऐसे अन्य कर्मकार द्वारा जो ऐसी रीति में प्राधिकृत है, जैसी विहित की जाए, किया जाए । ”

इस प्रावधान को पढ़ने से प्रकट होता है कि इस अधिनियम के अन्तर्गत किसी भी कार्यवाही में कर्मकार का प्रतिनिधित्व उस रजिस्ट्रीकृत संघ की ओर से किया जा सकता है जिसका कि कर्मकार सदस्य है । यह प्रतिनिधित्व व्यवसाय संघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा किया जा सकता है । प्रस्तुत मामले में यह बात साबित ही नहीं हुई है कि प्रार्थी “बीकानेर डिविजन ट्रेड यूनियन काउन्सिल” का सदस्य है ।

15. कर्मकार का प्रतिनिधित्व व्यवसाय संघों के उस परिसंघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा भी किया जा सकता है जो धारा 36 (1) (क) में निविष्ट व्यवसायसंघ से सम्बद्ध है । इसके अलावा जो कर्मकार किसी व्यवसाय संघ का सदस्य नहीं है वह उस उद्योग में जिसमें वह नियोजित है से संसक्त किसी व्यवसाय संघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा या उद्योग में नियोजित अन्य कर्मकार द्वारा अपना प्रतिनिधित्व करा सकता है ।

16. विद्वान प्रतिनिधि प्रार्थी ने दिनांक 25-10-96 को अपने प्रार्थना-पत्र के साथ जो दस्तावेज पेश किये हैं उनमें श्रम प्रवर्तन एवम् समझौता अधिकारी (केन्द्रीय) बीकानेर के समक्ष प्रस्तुत किये गये प्रतिवेदन की फोटों प्रति है । इसमें केन्द्रीय पशु प्रजनन कर्मचारी यूनियन का नाम भी उल्लेखित है और उसके किसी अध्यक्ष के हस्ताक्षर भी इस पर अंकित है । साधू ही श्री भारतभूषण आर्य के हस्ताक्षर महामन्त्री बीकानेर डिविजन ट्रेड यूनियन काउन्सिल की हैसियत से दर्ज है । दूसरा दस्तावेज श्रम प्रवर्तन अधिकारी बीकानेर के असफल वार्ता प्रतिवेदन की फोटो कापी है । तीसरा दस्तावेज केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन के पंजीकरण प्रमाणपत्र की फोटो प्रति है । प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन एक रजिस्टर्ड व्यवसाय संघ है जो बीकानेर डिविजन ट्रेड यूनियन काउन्सिल से सम्बद्ध है । प्रार्थी पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन का सदस्य है अतः बीकानेर डिविजन ट्रेड यूनियन काउन्सिल को प्रार्थी का प्रतिनिधित्व करने का अधिकार है । मैं, विद्वान

प्रतिनिधि प्रार्थी के तर्क से सहमत नहीं हूँ । प्रथम तो ये फोटों प्रतियाँ सक्षम साक्ष्य के द्वारा दस्तावेज के रूप में साबित नहीं कराये हुए हैं इसलिए इनको साक्ष्य में पढ़ना भी उचित नहीं था । तर्क के तौर पर यदि हम इन दस्तावेजों को साक्ष्य में पढ़ भी लें तो अधिक से अधिक यही बिंदु होगा कि केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन पंजीकृत व्यवसाय संघ है लेकिन अधिनियम की धारा 36(1)(क) के अनुसार यह साबित नहीं है कि प्रार्थी इसका सदस्य है । इसी प्रकार अधिनियम की धारा 36(1)(क) के अनुसार साक्ष्य में यह साबित नहीं कराया गया है “केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन” “बीकानेर डिविजन ट्रेड यूनियन काउन्सिल” से सम्बद्ध है । इसलिए बीकानेर डिविजन ट्रेड यूनियन काउन्सिल के महामन्त्री द्वारा जो प्रतिनिधित्व किया गया है वह अधिनियम की धारा 36(1)(क) और (ख) के अनुसार नहीं है । अब, कुछ समय के लिए हम यह मान लें कि प्रार्थी किसी व्यवसाय संघ का सदस्य नहीं है तो भी वह अपना प्रतिनिधित्व किसी व्यवसाय संघ के पदाधिकारी या सदस्य से करवा सकता था । लेकिन उसके लिए यह शर्त है कि वह उस पदाधिकारी या सदस्य अथवा उस उद्योग में नियोजित कर्मचारी के पक्ष में अपना अधिकार पत्र साबित कराये, वह भी इस मामले में साबित नहीं हुआ है । अतः अधिनियम की धारा 36(1)(ग) के अनुसार उसका प्रतिनिधित्व उचित प्रकार से नहीं हुआ है । प्रार्थी का प्रतिनिधित्व समझौता कार्यवाही में तथा इस न्यायाधिकरण के समक्ष उचित रूप से नहीं किया गया है इसलिए केन्द्रीय सरकार द्वारा यह प्रसंग प्रेषित करना उचित नहीं था । ठीक इसी प्रकार से यह न्यायाधिकरण भी प्रार्थी के पक्ष में पंचाट जारी करने में इस आधार पर सक्षम नहीं है इसके अलावा बीकानेर डिविजन ट्रेड यूनियन काउन्सिल का पंजीकृत होना भी साबित नहीं कराया गया है और न ही स्टेटमेंट ऑफ क्लेम पर प्रार्थी स्वयं के हस्ताक्षर हैं इसलिए प्रस्तुत मामले में प्रार्थीगण का प्रतिनिधित्व अवैध रूप से किया गया है और इसके कारण श्री भारतभूषण आर्य को पंचाट प्राप्त करने का कोई अधिकार नहीं है अतः पंचाट पारित नहीं किया जा सकता ।

पंचाट

17. फलस्वरूप इस विवाद को इस प्रकार से उत्तरित किया जाता है कि श्री सुभाष यादव पुत्र श्री रामहरव यादव की सेवामुक्ति के बारे में जो विवाद अधिनिर्णयार्थ पेश हुआ था उसमें उसका प्रतिनिधित्व अधिनियम की धारा 36 के अनुसार नहीं किया गया है इसलिए इस न्यायाधिकरण द्वारा उसके पक्ष में कोई पंचाट नहीं दिया जा सकता ।

उक्त पंचाट अधिनियम की धारा 17(1) के अन्तर्गत केन्द्रीय सरकार को प्रकाशनार्थ भेजा जाये ।

18. आज दिनांक 8-10-98 को सारे इजलास लिखाई व सुनाई जाकर हस्ताक्षरित की गई ।

गुलाम हुसैन न्यायाधीश

नई दिल्ली, 6 नवम्बर, 1998

का०आ० 2477.—श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, केन्द्रीय पशु प्रजनन केन्द्र, सूरतगढ़ के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट श्रीद्योगिक विवाद में श्रीद्योगिक अधिकरण, बीकानेर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-98 को प्राप्त हुआ था।

[सं० एल-42012/181/93-आई आर (डी यू)]

के०वी०बी० उण्णी, अवर सचिव

New Delhi, the 6th November, 1998

S.O. 2477.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Bikaner as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Director, Central Cattle Breeding Centre, Suragarh and their workman, which was received by the Central Government on 6-11-98.

[No. L-42012/181/93-IR(DU)]

K. V. B. UNNY, Under Secy.

अनुबंध

केन्द्रीय श्रीद्योगिक न्यायाधिकरण, बीकानेर

नं०मु० सी०आई०टी० रैफरेन्स 4/1994

श्री भोला पुत्र श्री जमुना जाति हरिजन, पद चौकीदार—
द्वारा श्री भारतभूषण आर्य, महामंत्री, बीकानेर डिविजन
ट्रेड यूनियन काऊन्सिल, खजांची बिल्डिंग बीकानेर।

—प्रार्थी/श्रमिक/यूनियन

बनाम

निदेशक, केन्द्रीय पशु प्रजनन केन्द्र, सूरतगढ़

—अप्रार्थी/नियोजक

रैफरेन्स अन्तर्गत धारा 10(1)(घ), श्रीद्योगिक विवाद
अधिनियम, 1947

न्यायाधीश—श्री गुलाम हुसैन, आर०एच०जे०एस०

उपस्थित :—

1. श्री भारतभूषण आर्य, श्रमिक प्रतिनिधि
2. श्री उत्तम चन्द गुप्ता, नियोजक प्रतिनिधि

अधिनिर्णय :

दिनांक, 8 अक्टूबर, 1998

भारत सरकार, नई दिल्ली ने “श्रीद्योगिक विवाद अधिनियम, 1947” जिसे अब के पश्चात् सिर्फ “अधिनियम” कहा गया है कि धारा 10 की उपधारा (1) के खण्ड

(घ) के अधीन जारी आदेश क्रमांक 42012/181/93-आई०आर(डी०यू०) दिनांक 16-11-94 के द्वारा प्रेषित इस रैफरेन्स के अन्तर्गत निम्न विवाद अधिनिर्णयार्थ इस न्यायाधिकरण में प्रेषित किया था :

“क्या निदेशक, केन्द्रीय पशु प्रजनन केन्द्र सूरतगढ़ द्वारा श्री भोलाराम पुत्र श्री जमुना हरिजन को उसके पद चौकीदार से हटाने का कृत्य न्यायोचित है ? यदि नहीं तो कामगार किस मदद के लिये हकदार है ?”

2. प्रार्थी भोला जिसे अब के पश्चात् सिर्फ प्रार्थी कहा गया है की ओर से यूनियन द्वारा प्रस्तुत क्लेम विवरण के अनुसार संक्षिप्त तथ्य इस प्रकार है कि यह प्रार्थी अप्रार्थी संस्थान में चौकीदार के पद पर 1-4-80 को नियुक्त हुआ था तथा वह एक पुराना व स्थाई कर्मचारी था, उसने अपना सेवाकाल एक वर्ष व 240 दिनों से अधिक व निरन्तर सेवाकाल पूरा कर लिया था और वह एक श्रीद्योगिक कामगार था तथा इस संस्थान पर श्रीद्योगिक विवाद अधिनियम लागू है तबनुसार वह धारा 25-बी, 25-एफ, 25-जी, तथा 25-एच के समस्त प्रावधानों के अन्तर्गत लाभ पाने का हकदार है, अप्रार्थी ने अपने तत्कालीन कृषि अधिकारी के माध्यम से उसे दिनांक 11-1-86 को काम पर नहीं लिया तथा सेवामुक्त कर दिया, इस सेवामुक्ति को अवैध छंटनी बताते हुए कहा है कि सेवामुक्त करने के पूर्व कोई कारण नहीं बताया, नोटिस अथवा नोटिस के बदले में वेतन नहीं दिया और न छंटनी का मुआवजा दिया, वरिष्ठता सूची का प्रकाशन नहीं किया गया और न “पीछे आवे पहले जावे” के मान्य सिद्धान्त की पालना की गई जिसके कारण यह छंटनी नितान्त अवैध है और आवश्यकता पड़ने पर उसे काम पर नहीं बुलाने से भी उक्त सेवामुक्ति अवैध है। अंत में श्रमिक को सेवामुक्ति आदेश निरस्त कर संवेतन काम पर लिये जाने की प्रार्थना की गई है।

3. अप्रार्थी नियोजक द्वारा प्रस्तुत जवाब में प्रारंभिक आपत्तियों में कहा है कि क्लेम प्रार्थी स्वयं ने पेश नहीं किया है, सारी कार्यवाही भारतभूषण आर्य ने अपनी तरफ से की है जो न्यायसंगत व उचित नहीं है जिसके हक में कोई अधिकारपत्र भी उसने निष्पादित नहीं किया हुआ है इसके अलावा ऐसा कोई सबूत भी पेश नहीं किया है कि यह श्रमिक उसकी किसी यूनियन का सदस्य है, बीकानेर ट्रेड यूनियन काऊन्सिल कोई मान्यता प्राप्त ट्रेड यूनियन नहीं है—न अप्रार्थी ने इसे मान्यता दी है इस प्रकार अप्रार्थी नियोजक के अनुसार कोई विवाद है ही नहीं इसलिए इस संबंध में जो भी कार्यवाही हुई है वह गलत है, अप्रार्थी संस्थान “उद्योग” की परिभाषा में नहीं आता और इस पर अधिनियम के प्रावधान लागू नहीं हैं।

भववार उत्तर प्रस्तुत करते हुए अप्रार्थी नियोजक ने मुख्यतया बताया है कि श्रमिक अप्रार्थी नियोजक के अन्तर्गत कार्यरत कर्मचारी नहीं है, उसे दैनिक वेतन भोगी श्रमिक के रूप में निश्चित अवधि के लिये निश्चित कार्य के लिये सीजन

पर लगाना व आवश्यकता पड़ने पर कभी-कभी काम पर आना बताते हुए यह भी कहा है कि कृषि मजदूरों को वेतन मात्र सीजन पर ही विशेष कार्य के लिये व विशेष प्रयोजन के लिये एक निश्चित अवधि के लिये काम पर रखा जाता है, नियमित मजदूर इतने नहीं हैं कि बिजार्ई के समय कार्य पूरा कर सकें इसलिये बिजार्ई के समय अधिक मजदूर कुछ समय के लिये लगाने पड़ते हैं, भोला ने नवम्बर, 87 तक फार्म पर कार्य निश्चित अवधि के लिये किया। बिनांक 13-1-86 से काम पर लेना बन्द कर देने को गलत बताते हुए अन्य सभी तथ्यों को अस्वीकार किया गया है और यह कहा है कि वह स्वयं ही काम छोड़कर अन्य स्थान पर काम करने चला गया, भारत सरकार कृषि मंत्रालय ने नये आकस्मिक दैनिक वेतन भोगी श्रमिक की भर्ती बन्द कर दी है, श्रमिक का अन्य स्थान पर कार्य करने चला जाना बताते हुए लम्बे अर्से के बाद 6-7-93 को श्रम प्रवर्तन अधिकारी के समक्ष आवेदन पत्र पेश करने के कारण स्टेटमेंट ऑफ क्लेम खारिज किये जाने की प्रार्थना की है।

5. साक्ष्य में श्रमिक भोला ने अपना शपथपत्र पेश किया जिससे नियोजक द्वारा जिरह की गयी जिसके विपरीत नियोजक की ओर से बलदेवसिंह ने अपना शपथपत्र पेश किया जिससे श्रमिक द्वारा जिरह की गयी है। दस्तावेजात पेश हुए।

6. दोनों पक्षों की साक्ष्य लेने के उपरान्त इस न्यायाधिकरण ने बिनांक 25-10-96 को इस प्रकरण का अधिनिर्णय प्रार्थी के पक्ष में करते हुए अवार्ड जारी कर दिया। अवार्ड जारी होने के उपरान्त इस निर्णय के विरुद्ध माननीय राजस्थान उच्च न्यायालय में रिट याचिका प्रस्तुत की गई। इसके साथ दो अन्य प्रकरणों का भी इसी दिन निर्णय हुआ था और उनके विरुद्ध भी रिट याचिकाएं प्रस्तुत हुई थीं। दिनांक 9-5-97 को माननीय राजस्थान उच्च न्यायालय ने इन रिट याचिकाओं का निर्णय करते हुए यह समुक्ति प्रदान की कि इस न्यायाधिकरण ने अप्रार्थी नियोजक द्वारा अपने जवाब में उठाई गई दो प्रारंभिक आपत्तियों पर कोई निर्णय नहीं दिया है जबकि वे दोनों प्रारंभिक आपत्तियां इस प्रकरण के न्यायपूर्ण निस्तारण के लिये अत्यन्त आवश्यक थीं। माननीय उच्च न्यायालय ने उस आधार पर इस अधिनिर्णय द्वारा पारित किया गया अवार्ड निरस्त करते हुए यह भामला नये सिरे से अधिनिर्णय हेतु इस न्यायाधिकरण को रिमान्ड करते हुए यह निर्देश दिया है कि न्यायाधिकरण समस्त प्रकरण का नये सिरे से अधिनिर्णय करें जिनमें अप्रार्थी नियोजक द्वारा उठाई गई प्रारंभिक आपत्तियों का भी निर्णय किया जावे। माननीय उच्च न्यायालय ने ऐसा करने के लिये इस न्यायाधिकरण को आदेश प्रस्तुति से 6 सप्ताह का समय प्रदान किया था। प्रार्थी श्रमिक ने दिनांक 23-6-98 को माननीय उच्च न्यायालय के उक्त आदेशों की नकलें प्रस्तुत करते हुए इस प्रकरण का निर्णय करने की प्रार्थना की है। अप्रार्थी नियोजक को नोटिस दिया गया और माननीय उच्च न्यायालय से निस्तारण का समय बढ़ाने की प्रार्थना करते हुए प्रार्थनापत्र लिखा गया। दोनों पक्षों की

बहस सुनी गयी एवं पत्रावली का अवलोकन किया गया। मेरे सामने प्रस्तुत मामले में निम्नलिखित विचारणीय बिन्दु हैं :

- (1) आया प्रार्थी की सेवागुक्ति ठंडनी है ?
- (2) आया अधिनियम की धारा 25-एफ एवम् 25-जी, के आश्रयक प्रावधानों की पालना तथाकथित ठंडनी के पूर्व की जानी अनिवार्य थी। यदि हां तो क्या पालना की गई ?
- (3) क्या प्रार्थी यूनियन द्वारा वैधानिक रूप से स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया है और इस स्टेटमेंट ऑफ क्लेम के आधार पर यह न्यायाधिकरण अधिनिर्णय देने में सक्षम है ?
- (4) क्या अप्रार्थी नियोजक संस्थान उद्योग की परिभाषा में आता है ?

बिन्दु संख्या-1 का निर्णय :

7. क्लेम के अनुसार ही प्रार्थी ने अपने शपथपत्र में भी अप्रार्थी के अन्तर्गत चौकीदार के पद पर दिनांक 1-4-80 को नियुक्त होना व 11-1-86 को बिना कारण बताये व नोटिस दिये सेवा मुक्त करना व नियुक्ति पत्र नहीं देना बताया। प्रार्थी श्रमिक का यह भी शपथपूर्वक कथन है कि उसे हटाते वक्त काम पर लेने व हाजरी लगाने का उसने प्रार्थनापत्र प्रदर्श डब्लू० 1, 3, 5, 7 लगायत 10 जरिये यू०पी०सी०/रजिस्टर्ड डाक से भेजना व रजिस्ट्री प्रदर्श-II व यूनियन द्वारा पत्र प्रदर्श 12 व 12 भेजना तथा समझौता वार्ता में नियोजक का उत्तर प्रदर्श डब्लू० 14 होना कहा है। जिरह में यह भी कहता है कि मैं चौकीदारी करता था, मैंने छः साल काम किया, मुझे बलदेवसिंह ने हटाया था, हटाने के तीन चार महीने बाद मैं गया और बरखास्त बलदेवसिंह को दी, उसके बाद कोई बरखास्त नहीं दी और मैं यूनियन वालों के पास चला गया। इसके विपरीत नियोजक साक्षी बलदेवसिंह ने अपना शपथपत्र दिया है जिसने अपने शपथपत्र में अंकित किया है कि श्रमिक ने कुछ अर्से तक के लिये समय-समय पर 11-1-86 तक काम किया था उसके बाद वह स्वेच्छा से काम छोड़कर चला गया और कभी भी काम करने की इच्छा जाहिर नहीं की तथा पत्राचार को बनावटी बताया। नियोजक का यह साक्षी जिरह में स्वीकार करता है कि श्रमिक की नियुक्ति विशेष सीजन, अवधि के लिये थी, अलग से आवेश या नियुक्ति पत्र नहीं दिया गया था। दैनिक वेतन भोगी कर्मचारियों को काम करने के बारे में अलग से आवेश जारी नहीं किये जाते हैं इनसे फसल काटना, पानी लगाना, खाले बनाना, चारे के बीच का उत्पादन करना व उनका काटना, उपरोक्त काम के लिये हमारी संस्था में नियमित कर्मचारी भी रखे हुए हैं लेकिन काम को समय पर पूरा करने व जल्दी निपटाने के लिये दैनिक वेतन भोगी कर्मचारीगण रखे जाते हैं आज मौखिक याद नहीं कि इस श्रमिक को किस अवधि के लिये रखा गया। यह सही है कि श्रमिक के

अनुपस्थित होने पर उसे अनुपस्थित बाबत नोटिस की कार्यवाही नहीं की जा ही नोटिस अनुपस्थिति बाबत दिया ।

8. दोनों पक्षों द्वारा प्रस्तुत की गई साक्ष्य का अवलोकन किया गया । प्रार्थी ने जो शपथपत्र पेश किया है उसमें उसने निश्चित रूप से यह लिखा है कि उसकी नियुक्ति दिनांक 1-4-80 को हुई थी तथा उसको 11-1-86 से सेवामुक्त कर दिया गया । इसके विपरीत बलदेवसिंह ने जो शपथपत्र खण्डन में दिया है वह स्पष्ट नहीं है । बलदेवसिंह ने अपने शपथपत्र में नियुक्ति तिथि का तो उल्लेख ही नहीं किया है लेकिन यह अवश्य कहा है कि प्रार्थी ने 11-1-86 तक काम किया था । उसने यह भी कहा है कि कुछ अर्से तक के लिये समय-समय पर काम किया था । लेकिन बाद में वह स्वयं ही कार्य छोड़कर चला गया । इस प्रकार बलदेवसिंह के कथन से यह स्पष्ट नहीं होता है कि प्रथम तो प्रार्थी की नियुक्ति कब हुई और उसने किस तिथि से लेकर किस तिथि तक कितने दिनों काम किया । बलदेवसिंह की ऐसी अस्पष्ट और भ्रामक साक्ष्य के मुकाबले में प्रार्थी भोला की स्पष्ट और निश्चित साक्ष्य मौजूब है जिसमें उसने 1-4-80 से 11-1-86 तक अप्रार्थी के अधीन निरन्तर सेवारत रहना कथन किया है । जहां प्रार्थी एक अशिक्षित मजदूर है जिसको अपने हस्ताक्षर करना भी नहीं आता है, उसने अपनी सेवा की निश्चित अवधि बयान की है । लेकिन बलदेवसिंह ने अस्पष्ट तथ्यों का सहारा लिया है । बलदेवसिंह एक सरकारी विभाग में अधिकारी के पद पर नियुक्त था । यह अपने संस्थान का अभिलेख प्रस्तुत करके यह बता सकता था कि प्रार्थी ने कब-कब काम नहीं किया लेकिन अप्रार्थी द्वारा कोई अभिलेख पेश नहीं किया गया है । इसलिये यही माना जावेगा कि प्रार्थी ने 1-4-80 से 11-1-86 तक निरन्तर सेवारत रहते हुए अप्रार्थी संस्थान में काम किया है और उसके द्वारा अप्रार्थी संस्थान में किसी भी एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य करना साबित है ।

9. बलदेवसिंह का यह कथन है कि प्रार्थी 11-1-86 के बाद स्वयं काम छोड़कर चला गया था लेकिन बलदेवसिंह यह स्वीकार करता है कि इसके लिये अनुपस्थिति के बाबत प्रार्थी को कोई नोटिस नहीं दिया गया था । इसलिये प्रार्थी का शपथ पर दिया गया यह कथन माने जाने योग्य है कि उसे 11-1-86 के बाद काम पर नहीं लिया गया । प्रार्थी द्वारा स्वयं काम छोड़कर जाना प्रदर्श डब्ल्यू. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 से भी माने जाने योग्य नहीं है एक ओर तो प्रार्थी स्वयं काम छोड़कर चला जावे और दूसरी ओर वह प्रदर्श डब्ल्यू. 1 लगायत 10 पत्र लगातार अप्रार्थी संस्थान को लिखता रहे कि उसे दिनांक 11-1-86 से कार्य पर होते हुए भी काम पर नहीं लिया गया है और न हाजरी लगायी गयी है । इससे साबित होता है कि प्रार्थी काम पर जाना चाहता था, वह दिनांक 11-1-86 से जानबूझकर अनुपस्थित नहीं हुआ था यदि वह अनुपस्थित होता तो कोई कारण नहीं था कि वह प्रदर्श डब्ल्यू. 1 से प्रदर्श डब्ल्यू. 10 पत्र लिखता ।

10. बलदेवसिंह ने अपने कथन में स्वीकार किया है कि प्रार्थी को सीजनल काम पर लगाया गया था । लेकिन उसके जिम्मे जो काम था वही काम अन्य नियमित कर्मचारी भी करते थे इसलिये प्रार्थी तथा अन्य नियमित कर्मचारियों की हैसियत में कोई अन्तर नहीं था । गवाह बलदेवसिंह द्वारा यह कहने की भी चेष्टा की गयी है कि प्रार्थी को एक विशेष अवधि के लिये विशेष कार्य हेतु नियुक्ति दी गई थी । किन्तु, इस सम्बन्ध में कोई लिखित आदेश पेश नहीं किया गया है इसलिये यह बात माने जाने योग्य नहीं है कि प्रार्थी को एक विशेष कार्य के लिये और विशेष अवधि तक ही नियुक्त किया गया था । प्रार्थी का एक कलेण्डर वर्ष में 240 दिनों से अधिक काम करना साबित है अतः अधिनियम की धारा 25-बी के अनुसार उसका निरन्तर सेवारत कर्मकार होना भी साबित है । प्रार्थी को मौखिक आदेश से सेवामुक्त किया गया है, निश्चित रूप से उसकी यह सेवामुक्ति अधिनियम की धारा 2(00) के अन्तर्गत किसी अपवाद में न आने के कारण छंटनी की श्रेणी में आती है । अतः प्रार्थी को छंटनी के तौर पर सेवामुक्त किया गया है । बिन्दु सं. 2 का निर्णय :

11. यह तथ्य निर्विवादित है कि प्रार्थी को सेवामुक्त करने के पूर्व न तो अधिनियम की धारा 25-एफ के अन्तर्गत एक माह का नोटिस दिया गया था न उसके बदले वेतन दिया गया और न ही कोई मुआवजा दिया गया था । इसलिये अप्रार्थी द्वारा अधिनियम की धारा 25-एफ की पालना नहीं की गयी है । वरिष्ठता सूची का प्रकाशन भी नहीं हुआ है इसलिये प्रार्थी की सेवामुक्ति अवैध है । बिन्दु सं. 3 का निर्णय :

12. अब, एक और महत्वपूर्ण प्रश्न बच जाता है कि क्या प्रार्थी का प्रतिनिधित्व जिस यूनियन के द्वारा किया गया है वह वैधानिक रूप से किया गया है और जिस प्रतिनिधि ने प्रार्थी का इस न्यायाधिकरण में प्रतिनिधित्व किया है वह प्रार्थी की ओर से ऐसा करने को अधिकृत था ? इस सम्बन्ध में यूनियन के विद्वान प्रतिनिधि ने मेरे सामने यह बहस की थी कि माननीय उच्च न्यायालय से यह प्रकरण इस न्यायाधिकरण में रिमाण्ड होकर प्राप्त हुआ है इसमें इस न्यायाधिकरण को अप्रार्थी द्वारा रखी गयी प्रारंभिक आपत्तियों पर भी निर्णय देना है इसलिये प्रारंभिक आपत्तियों पर प्रार्थी को साक्ष्य प्रस्तुत करने का अवसर दिया जाए । किन्तु, माननीय उच्च न्यायालय के आदेश में इस प्रकरण का नये सिरे से निर्णय करने का ही निर्देश है साक्ष्य लेकर निर्णय करने का आदेश नहीं है । इसलिये प्रार्थी की ओर से प्रस्तुत किया गया यह तर्क माने जाने योग्य नहीं है । अप्रार्थी द्वारा यह प्रारंभिक आपत्तियां प्रारंभ में ही उठा दी गयी थी और इस न्यायाधिकरण ने दिनांक 25-10-96 को जो निर्णय दिया था उसमें इन आपत्तियों का विवरण भी है किन्तु उस पर निर्णय नहीं दिया गया था । प्रार्थी यदि अपना यह पक्ष उचित समझता तो इन बिन्दुओं पर वह पहले ही साक्ष्य प्रस्तुत करता । लेकिन प्रार्थी द्वारा पहले कोई साक्ष्य पेश नहीं की गयी । माननीय उच्च न्यायालय के

समक्ष भी इस प्रकार की प्रार्थना नहीं की गयी है कि प्रार्थी इस बारे में साक्ष्य प्रस्तुत करना चाहता है इसलिये माननीय उच्च न्यायालय ने इस बारे में किसी प्रकार का निर्देश नहीं दिया है। अतः इन परिस्थितियों में साक्ष्य लेना आवश्यक नहीं था। इतना ही नहीं जब इस मामले में सुनवाई अंतिम रूप से दिनांक 25-10-96 को की जा रही थी तभी प्रार्थी पक्ष की ओर से इस बिन्दु के समर्थन में एक प्रार्थनापत्र के साथ तीन दस्तावेजात पेश किए गये थे और प्रार्थी ने उन दस्तावेजात को साक्ष्य में मानकर संतोष किया था। इसलिये प्रार्थी ने जैसी भी साक्ष्य मुनासिब समझी वह पहले प्रस्तुत कर दी थी। अब, वे दस्तावेजात साक्ष्य में ग्राह्य है या नहीं यह भ्रम विषय है लेकिन प्रार्थी अपनी ओर से साक्ष्य प्रस्तुत कर चुका था। माननीय उच्च न्यायालय के निर्देश न होने के कारण साक्ष्य लेना उचित नहीं मानते हुए प्रार्थी पक्ष की साक्ष्य नहीं ली गयी।

13. अब, मैं मूल प्रश्न की ओर लौटता हूँ। अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि प्रार्थी की ओर से जो स्टेटमेंट ऑफ क्लेम पेश किया गया है वह श्री भारतभूषण आर्य, महामंत्री—बीकानेर डिविजन ट्रेड यूनियन काउन्सिल खजांची बिल्डिंग बीकानेर की ओर से प्रस्तुत हुआ है, इस पर श्री भारतभूषण आर्य के हस्ताक्षर भी हैं। इस स्टेटमेंट आफ क्लेम को देखने से यह प्रकट हुआ कि श्री भारतभूषण आर्य बीकानेर डिविजन ट्रेड यूनियन काउन्सिल का महामंत्री है। अधिनियम की धारा 36 में इस अधिनियम के अन्तर्गत किसी भी कार्यवाही में कर्मकार एवम् नियोजक का प्रतिनिधित्व किसके द्वारा किया जावेगा, के बाबत व्यवस्था प्रदान की गयी है। अधिनियम की धारा 36(1) इस प्रकार से है, जो कि कर्मकार से सम्बन्धित है:—

“वह कर्मकार जो विवाद में पक्षकार है इस बात का हकदार होगा कि इस अधिनियम के अधीन की किसी भी कार्यवाही में उसका प्रतिनिधित्व—

(क) उस रजिस्ट्रीकृत व्यवसायसंघ की, जिसका वह सदस्य है, कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा,

(ख) व्यवसाय संघों के उस परिसंघ की, जिससे वह खंड (क) में निर्दिष्ट व्यवसाय संघ संबद्ध है, कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा,

(ग) जहां कि कर्मकार किसी व्यवसाय संघ का सदस्य नहीं है, वहां उस उद्योग से, जिसमें कर्मकार नियोजित है, संसक्त किसी व्यवसाय संघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा या उस उद्योग में नियोजित ऐसे अन्य कर्मकार द्वारा जो ऐसी रीति से प्राधिकृत है, जैसी विहित की जाए,

किया जाए।”

इस प्रावधान को पढ़ने से प्रकट होता है कि इस अधिनियम के अन्तर्गत किसी भी कार्यवाही में कर्मकार कि

प्रतिनिधित्व उस रजिस्ट्रीकृत व्यवसायसंघ की ओर से किया जा सकता है जिसका कि कर्मकार सदस्य है। यह प्रतिनिधित्व व्यवसाय संघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा किया जा सकता है। प्रस्तुत मामले में यह बात साबित ही नहीं हुई है कि प्रार्थी “बीकानेर डिविजन ट्रेड यूनियन काउन्सिल” का सदस्य है।

14. कर्मकार का प्रतिनिधित्व व्यवसाय संघों के उस परिसंघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा भी किया जा सकता है जो धारा 36(1)(क) में निर्दिष्ट व्यवसाय संघ से संबद्ध है। इसके अलावा जो कर्मकार किसी व्यवसाय संघ का सदस्य नहीं है वह उस उद्योग में जिसमें वह नियोजित है से संसक्त किसी व्यवसाय संघ की कार्यपालिका के किसी सदस्य या अन्य पदाधिकारी द्वारा या उद्योग में नियोजित अन्य कर्मकार द्वारा अपना प्रतिनिधित्व करा सकता है।

15. विद्वान प्रतिनिधि प्रार्थी ने दिनांक 25-10-96 को अपने प्रार्थनापत्र के साथ जो दस्तावेजात पेश किये हैं उनमें श्रम प्रवर्तन एवम् समझौता अधिकारी (केन्द्रीय) बीकानेर के समक्ष प्रस्तुत किये गये प्रतिवेदन की फोटो प्रति है। इसमें केन्द्रीय पशु प्रजनन केन्द्र कर्मचारी यूनियन का नाम भी उल्लेखित है और उसके किसी अध्यक्ष के हस्ताक्षर भी इस पर अंकित है। साथ ही श्री भारतभूषण आर्य के हस्ताक्षर महामंत्री बीकानेर डिविजन ट्रेड यूनियन काउन्सिल की हैसियत से दर्ज है। दूसरा दस्तावेज ‘श्रम प्रवर्तन अधिकारी बीकानेर के असफल वार्ता प्रतिवेदन की फोटो कॉपी है। तीसरा दस्तावेज पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन के पंजीकरण प्रमाणपत्र की फोटो प्रति है। प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन एक रजिस्टर्ड व्यवसायसंघ है जो बीकानेर डिविजन ट्रेड यूनियन काउन्सिल से सम्बद्ध है। प्रार्थी पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन का सदस्य है अतः बीकानेर डिविजन ट्रेड यूनियन काउन्सिल को प्रार्थी का प्रतिनिधित्व करने का अधिकार है। मैं, विद्वान प्रतिनिधि प्रार्थी के तर्क से सहमत नहीं हूँ। प्रथम तो वे फोटो प्रतियां सक्षम साक्ष्य के द्वारा दस्तावेज के रूप में साबित नहीं कराये हुए हैं इसलिये इनको साक्ष्य पढ़ना भी उचित नहीं था। तर्क के तौर पर यदि हम इन दस्तावेजात को साक्ष्य में पढ़ भी ले तो अधिक से अधिक यही विवक्षित होगा कि केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन पंजीकृत व्यवसाय संघ है लेकिन अधिनियम की धारा 36(1)(क) के अनुसार यह साबित नहीं है कि प्रार्थी इसका सदस्य है। इसी प्रकार अधिनियम की धारा 36(1)(ख) के अनुसार साक्ष्य से यह साबित नहीं कराया गया है कि “केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन फार्मस कर्मचारी यूनियन” “बीकानेर डिविजन ट्रेड यूनियन काउन्सिल” से सम्बद्ध है। इसलिये बीकानेर डिविजन ट्रेड यूनियन काउन्सिल के महामंत्री द्वारा जो प्रतिनिधित्व किया गया है वह अधिनियम की धारा 36(1)(क) और (ख) के

अनुसार नहीं है। अब, कुछ समय के लिये हम यह मानें कि प्रार्थी किसी व्यवसाय संघ का सदस्य नहीं है तो भी वह अपना प्रतिनिधित्व किसी व्यवसाय संघ के पदाधिकारी या सदस्य में करवा सकता था। लेकिन उसके लिये यह शर्त है कि वह उस पदाधिकारी या सदस्य अथवा उद्योग में नियोजित कर्मचारी के पक्ष में अपना अधिकार पत्र साबित कराये, वह भी इस मामले में साबित नहीं हुआ है। अतः अधिनियम की धारा 36(1)(ग) के अनुसार उसका प्रतिनिधित्व उचित प्रकार से नहीं हुआ है। प्रार्थी का प्रतिनिधित्व समझौता कार्यवाही में तथा इस न्यायाधिकरण के समक्ष उचित रूप से नहीं किया गया है इसलिये केन्द्रीय सरकार द्वारा यह प्रसंग प्रेषित करना उचित नहीं था। ठीक इसी प्रकार से यह न्यायाधिकरण भी प्रार्थी के पक्ष में पंचाट जारी करने में इस आधार पर सक्षम नहीं है। इसके अलावा बीकानेर डिवीजन ट्रेड यूनियन काउंसिल का पंजीकृत होना भी साबित नहीं कराया गया है और न ही स्टेटमेंट ऑफ क्लेम पर प्रार्थी स्वयं के हस्ताक्षर हैं इसलिये प्रस्तुत मामले में प्रार्थीगण का प्रतिनिधित्व अवैध रूप से किया गया है और इसके कारण श्री भारतभूषण आर्य को पंचाट प्राप्त करने का कोई अधिकार नहीं है अतः पंचाट पारित नहीं किया जा सकता।

बिन्दू संख्या-4 का निर्णय :

16. यह प्रश्न महत्वपूर्ण है कि अप्रार्थी संस्थान “उद्योग” की श्रेणी में आता है या नहीं? अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि अप्रार्थी संस्थान एक सरकारी विभाग है और उसका कार्य बलदेवसिंह के कथनानुसार केन्द्रीय सरकार के पशुओं के प्रजनन एवम् उन्नत नस्ल के धारणकर सांड एवम् बछड़े पैदा करना है। सांड व बछड़ों के लिये चारा व बीज पैदा करने के लिये एक हजार एकड़ भूमि कृषि कार्य के लिये छोड़ी हुई है जिसमें चारा उगाना एवं उससे सम्बन्धित कार्य किया जाता है और इसी काम के लिये प्रार्थी को रखा गया था। विद्वान अधिवक्ता का तर्क है कि इसके कारण अप्रार्थी संस्थान “उद्योग” की परिभाषा में नहीं आता है। मैं, विद्वान अधिवक्ता के तर्क से सहमत नहीं हूँ। अप्रार्थी संस्थान का कार्य उन्नत नस्ल के सांड व बछड़े पैदा करना अवश्य है लेकिन जो उन्नत नस्ल के ये पशु पैदा किये जाते हैं उनका व्यवसायिक उपयोग भी किया जाता है या नहीं इस बारे में बलदेवसिंह मौन है। जाहिर है कि अप्रार्थी संस्थान सांड व बछड़े पैदा करके अपने संस्थान में इकट्ठे नहीं कर सकता बल्कि उनका व्यवसायिक उपयोग अवश्य होगा इसलिये अप्रार्थी संस्थान में व्यवसायिक गतिविधि का मौजूद होना प्रकट होता है। यह व्यवसायिक गतिविधि नियोजक एवम् नियोक्तागण के परस्पर व्यवस्थित प्रक्रिया के रूप में की जाती है इसलिये बेंगलूर वाटर सप्लाई एण्ड सिवरेज बोर्ड बनाम ए० राजप्पा—ए०आई०आर० 1978 (सुप्रीमकोर्ट) 548 के न्यायदृष्टांत में दिखाये गये विधान-निर्देशों के प्रकाश में अप्रार्थी संस्थान “उद्योग” की श्रेणी में आना साबित है।

पंचाट

17. फलस्वरूप, इस विवाद को इस प्रकार से उत्तरित किया जाता है कि श्री भोलाराम पुत्र श्री जमुनाराम हरीजन, चौकीदार की भेवामुक्ति के बारे में जो विवाद अधिनिर्णयार्थ पेश हुआ था उसमें उसका प्रतिनिधित्व अधिनियम की धारा 36 के अनुसार नहीं किया गया है इसलिये इस न्यायाधिकरण द्वारा उसके पक्ष में कोई पंचाट नहीं दिया जा सकता।

उक्त पंचाट अधिनियम की धारा 17(1) के अन्तर्गत केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

18. आज्ञा आज दिनांक 8-10-98 को सरे इजलास लिखाई व सुनाई जाकर हस्ताक्षरित की गई।

गुलाम हसन, न्यायाधीश

नई दिल्ली, 3 नवम्बर, 1998

का०आ० 2478 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै० इंडियन ऑयल कॉर्पोरेशन लि० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में श्रम न्यायालय अरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-11-98 को प्राप्त हुआ था।

[सं० एल-30012/1/92-आई आर (विविध)/आई आर (सी-I)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 3rd November, 1998

S.O. 2478.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court Ernakulam as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 3-11-1998.

[No. L-30012/1/92-IR (Misc.)/IR (C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(Labour Court Ernakulam)

(Wednesday, the 16th day of September, 1998)

PRESENT :

Shri D. Mohanarajan, B.Sc., LL.B., Presiding Officer.

Industrial Dispute No. 1 of 1993 (C)

BETWEEN

The Deputy General Manager (Pers.), M/s. Indian Oil Corporation Ltd., (Marketing Division), Indian Oil Bhavan, 139, Numgambakkam High Road, Madras-600034.

AND

The General Secretary, Progressive General Workers' Union, 2/94, Kalvathi, Kochi-682001.

REPRESENTATIONS :

M/s. Menon and Pai, Advocates
Kochi-18 .. For Management

Sri A. X. Varghese, Advocate, Niyamavedi,
2/63, Kochi-682001 .. For Union

AWARD

The Government of India as per order No. I-30012/1/92-IR (Misc.) dated 28-1-1993 referred the following industrial dispute for adjudication of this Court.

"Whether the action of the management of M/s. Indian Oil Corporation Ltd., in not treating Smt. Bhavani, Sweeper in their installations in Wellington Island, Cochin as their regular employee is justified? If not, to what relief the workman is entitled?"

2. In response to the notice issued from this Court, both the parties entered appearance and submitted their respective pleadings.

3. The averments in the claim statement filed by the union read, in short as follows :

The workman Smt. Bhavani is a member of the union and has been working as a sweeper under the management from 1963 onwards. But she is denied service conditions applicable to comparable categories of employees in the management. The union by its letter dated 29-12-1978 demanded the management to pay wages and other service benefits to the worker as applicable to its similar employees. A copy of the letter was also forwarded to the Central Assistant Labour Commissioner, Ernakulam. According to him, the appropriate Government to deal with the dispute is the State Government. In the above circumstance, the union was constrained to approach the said conciliation machinery. But the conciliation resulted in failure and the matter was forwarded to the Government of Kerala. Consequently, the Government of Kerala as per reference order dated 3-11-83 referred the service conditions of the worker for the adjudication of this court. The management raised the contentions that the workman was never directly employed by it and that in fact, she was appointed by a contractor. Discarding the said contention put forward by the management, this court by award dated 19-7-1985 entered into a finding that the management herein is the employer of the workman, since service rendered by her was for its benefits. The workman was paid only a meagre amount of Rs. 140 as monthly wages, without giving anything towards dearness allowance and other allowances. At the same time, the lowest scale of pay in the management concern during that period was Rs. 421—710. As per the said award, she was allowed to get wages at such rate and other service benefits w.e.f. 3-11-1983 the date of the reference by the State Government. Aggrieved by this award, the management preferred O.P. No. 7154 of 1986 before the Hon'ble High Court. By judgment dated 12-12-1986 the Hon'ble High Court dismissed that O. P. Thereupon, the management preferred writ appeal No. 272 of 1987 before the Division Bench of the Hon'ble High Court. In that writ appeal, the award passed by this court was set aside and the reference of the State Government was rejected holding that the State Government was incompetent to make such a reference which ought to have been referred by the Central Government, the appropriate Government as defined in Section 2(a)(i) of the Industrial Disputes Act. On the basis of that finding entered into by the Division Bench of the Hon'ble High Court, the union approached the Central Assistant Labour Commissioner, Ernakulam under Section 12 of the Industrial Disputes Act. Since his efforts for an amicable settlement resulted in failure, the matter was forwarded to the Government of India, in consequence of which the present reference has been made. The findings on fact entered into by this

court were not reversed by the Division Bench of the Hon'ble High Court in the writ appeal preferred by the management. The workman is therefore entitled to a fresh award in terms of the award passed by this court on 19-7-1985.

4. The contentions of the management through its written statement are summarised below :

The workman was not employed by the management. There is no employer-employee relationship between the workman and the management. In fact, she is engaged by a contractor. So the industrial dispute raised against the management is invalid and the reference itself is illegal and without jurisdiction. The actual employer of the workman is not a party to the industrial dispute. The proceedings are therefore bad for non joinder of necessary parties. The union which raised the dispute is not a representative union. The reference is therefore not maintainable. House Keeping work of the Wellington Island Office of the management was given on contract to various contractors engaged from time to time. They engaged their own persons for doing the work undertaken on contract basis. They engaged casual and part-time sweepers for completing their contract work as and when needed. There is no privity of contract between the management and the workman. Her salary was paid by the contractors who engaged her. The management is not liable to pay her any benefits as she was never employed by it. The earlier award passed by this court was an ex parte one, as the management did not appear after filing its objection to the effect that the State Government was incompetent to make the reference. The above award was set aside by the Hon'ble High Court in writ appeal holding that the reference itself was illegal and without jurisdiction. The finding in the award which was set aside cannot be relied on by the union for any relief. The regular appointments to the management a public sector undertaking can be made only according to the recruitment rules which was framed in accordance with the Government of India policies. In case the workman is directed to be considered as a regular employee, it will amount to back door appointment. Further she is over aged. She has no right to be treated as regular employee under the management. She is not entitled to any relief.

5. The union filed rejoinder reiterating the allegations in the claim statement and refuting the contention of the management in the written statement

6. On the above pleadings, the points that arise for determination are :

- (1) Whether the workman is an employee under the management ?
- (2) What, if any is the relief to which the workman is entitled ?

7. The evidence consists of the testimony of WW-1 and Exts. W-1, W-2 and M-1.

8. Point No. 1—The specific case of the workman represented by her union is that she has been working as a sweeper under the management from 1963 onwards and that in spite of continuous and uninterrupted service of more than 30 years, the management is not prepared to regularise her service by giving adequate wages and allowances. The main contention of the management is that workman was never appointed directly by the management and that she was appointed by a contractor who has been paying wages and other allowances to her. However, the services rendered by the workman to the management is not denied by the latter. What is contended by the management is that there is no employer-employee relationship between the management and the workman.

9. The workman gave evidence in court as WW-1. Her testimony that she has been serving the management from 1963 onwards was not seriously challenged in cross examination. The fact that she is working for its benefit cannot be disputed.

10. The same industrial dispute regarding the service conditions of the workman was referred to this court by the State Government as per its order dated 3-11-1983. The management had raised more or less the same contentions before this court in that proceedings. Having regard to the principles laid down in the Supreme Court decision in *Hussainbhai, Calicut vs. Alath Factory Thozhilali Union* reported in 1978 (II) LJS 397, one of my learned predecessors-in-office by Ext. W-1 award dated 19-7-1985 found that the workman is an employee of the management. Ext. W-1 award was set aside by the Division Bench of our Hon'ble High Court in the Writ appeal filed by the management. Ext. W-2 is the copy of the judgment in the writ appeal. A perusal of Ext. W-2 reveals that the award was set aside not on merits but on technical grounds. What was held by the Hon'ble High Court as per Ext. W-2 is that the State Government was incompetent to refer the industrial dispute as the management is a public sector undertaking of the Central Government. Subsequently the same industrial dispute was raised at the instance of the workman represented by her union before the Central Government, which has come to be referred to this court for adjudication.

11. Even according to the management, the union which raised the industrial dispute is a registered union. Certainly such a union, irrespective of its strength is competent to raise any industrial dispute affecting all or any of its members before the appropriate Government to be referred for adjudication of the Court.

12. In order to establish the approximate age of the workman, the management made an endeavour to adduce some evidence. As part of this endeavour, the management has produced Ext. M-1, the printed marriage intimation of the grand daughter of the workman. But, having regard to the matters in controversy between the parties in the case, this aspect as to the correct age of the workman does not deserve much importance.

13. The Central Government, exercising the power under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970, issued a notification on 9-12-1976 prohibiting employment of Contract labour for sweeping, cleaning, dusting and watching of buildings owned or occupied by the establishments in respect of which the appropriate Government is the Central Government. Thus it is clear that even if the management herein engaged, as contract labour, the workman for the said purpose, it ought to have enforced the aforesaid notification abolishing the contract labour system and absorbed her as regular employee w.e.f. the date of her joining duty as contract labour in its undertaking with all consequential rights and benefits, monetary or otherwise.

14. The three judge Bench of the Apex Court in *Air India Statutory Corporation vs. United Labour Union* reported in A.I.R. 1977 S.C. 645 has held that abolition of contract labour system ensures right to the workmen for regulation of them as employees in the establishment in which they were hitherto working contract labour through the contractor. The contractor stands removed from the regulation under the Act and direct relationship of "employer and employee" is created between the principal employer and workmen. The erstwhile contract labourers are made direct employees of the employer on abolition of the intermediary contractor. Of course, the workman is required to be paid the prescribed wages and must be provided with other welfare benefits envisaged under the Act under direct supervision of the principal employer.

15. From my forgoing discussions, it is apparent that the action of the management in not treating the workman as its regular employee is unjustifiable. She must be regarded as its regular employee and provided the same conditions of service as are applicable to other similar workmen. This point is answered accordingly.

16. Point No. 2—It follows from the above findings that the action of the management in not considering the workman herein as its regular employee is not justifiable. She must be treated as its regular employee by providing all service conditions which are applicable to similar workmen in its undertaking. The averment in the claim statement that the lowest scale of pay in the management concern 3097 GI/98—11.

during the period of 1983 was Rs. 421—710 is not denied in the written statement filed by the management. It has been rightly pointed out by the learned counsel appearing for the union that a settlement was entered into between the management and its workmen on 25-6-1983, as per which the lowest scale of pay is given to Grade I employees. In my opinion, the workman herein is eligible for service conditions of Grade I employees shown in that settlement. She will be allowed to get service benefits as such rate atleast from 3-11-1983, the date of the prior reference by the State Government. The management shall pay her all the benefits which have accrued due. The period of her service will be calculated from the date from which she has been continuously working as the sweeper in the management, for the purpose of paying gratuity and other service benefits. This point is answered as indicated above.

In the result, an award is passed holding that the action of the management in not treating the workman as its regular employee is unjustifiable. She must be regarded as its regular employee and provided the same conditions of service as are applicable to other similar employees. She is eligible for service conditions of similar employees (Grade I employees as per settlement entered into between the management and its workmen on 25-6-1983) from 3-11-1983. The management shall pay her all the benefits which have accrued due. For the purpose of paying gratuity and other service benefits, the period of her service will be calculated from the date from which she has been continuously working as the sweeper in the management.

This award shall come into effect on the expiry of 30 days from the date of its publication in the Government Gazette.

Dictated to the Confidential Assistant, transcribed and typed out by her, corrected by me on this the 16th day of September, 1998.

D. MOHANARAJAN, Presiding Officer

APPENDIX

Witness examined on the side of Union :
WW-1—Smt. Bhavani.

Exhibits marked on the side of Management :
Ext. M-1—A Wedding Invitation Card.

Exhibits marked on the side of Union :

Ext. W-1—Photo copy of award in I. D. 71/83 of Labour Court, Ernakulam dated 19-7-1985 published in the Kerala Gazette No. 20 dated 20-5-1986.

Ext. W-2—Copy of judgment in Writ Appeal No. 272/87 dated 27-2-90.

नई दिल्ली, 3 नवम्बर, 1998

कां.अ. 2479 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार मै. एच.पी.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उसके कर्मचारों के बीच, अन्वय में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण काश्मिर के पंचाट को अकाशित करती है, जो केन्द्रीय सरकार को 3-11-98 को प्राप्त हुआ था।

[सं. एल-30012/21/96—आई आर (सी-1)]

श्याम सुन्दर गुप्ता, डैस्क अधिकारी

New Delhi, the 3rd November, 1998

S.O. 2479.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the

Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. H.P.C.L. and their workman, which was received by the Central Government on 3-11-98.

[No. L-30012/21/96-IR(C-1)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR.

Industrial Dispute No. 93 of 1997
In the matter of dispute

BETWEEN

Ram Pratap Singh,
Village Karauri Kalan,
District Unnao

AND

Senior Regional Manager,
H.P.C.L. 4 Shahnajaf Road,
Lucknow.

Appearance :

M. L. Agrawal for the management and S. K. Tiwari for workman.

AWARD

1. Central Government Ministry of Labour vide notification no. L-30012/21/95-IR(C-1) dated 26-6-97 has referred the following dispute for adjudication to this Tribunal—

“Whether the claim of Sri Ram Pratap Singh workman that he was an employee of M/s. HPCL Ltd. LPG Plant Unnao from June 88 to May 1995 is legal and justified? Whether the employer employee relationship exists, if so to what relief is Sri Ram Pratap Singh entitled?”

2. The case of the concerned workman is that he was engaged as driver on 1-6-88 by the opposite party M/s. HPCL Ltd. at Unnao Depot and he continuously worked upto May 1995. In this way he had completed more than 240 days, his services were illegally terminated in May 1995, in breach of provisions of section 25F of I.D. Act.

3. In the reply the opposite party has alleged that the concerned workman was never engaged as driver, instead he was engaged as contractor at Unnao LPG Plant.

4. In the rejoinder it is denied that the concerned workman was engaged as contractor.

5. The only point which needs consideration is as to whether the concerned workman was engaged as driver or was contractor. The concerned workman has stated that he was engaged as driver in June 86

and his services were terminated in May 95. There are ext. W-1 to W-12 documents which are in the nature of letter of authorisation issued by the opposite party containing the attested signatures of the concerned workman for taking delivery on behalf of the opposite party. Besides there are receipts of repair of car and battery. From all these papers it is sought to be established that the concerned workman was working as driver. On the other hand V. K. Dogra M.W.-1 the manager had stated that the concerned workman was engaged as contractor for handling of cylinders for which the concerned workman had submitted a tender on the invitation by the opposite party and a theka was given to him. In this regard documents ext. M-1 to M-9 which shows the concerned workman had submitted a tender and actually theka was given to him. When workman was given theka it is unlikely that the concerned workman would have been engaged as driver as well. Hence I do not find any force in the evidence of the workman and believe the evidence of the management.

6. Accordingly it is held that the concerned workman was not engaged as driver. Instead he was engaged as a contractor, hence question of his termination being bad does not arise. Consequently the concerned workman would not be entitled for any relief.

Dated : 15-10-1998

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 नवम्बर, 1998

का.आ. 2480 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. इंडियन ऑयल कारपोरेशन बॉटलिंग प्लांट के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-11-98 को प्राप्त हुआ था।

[सं० एल-30012/55/97-आई आर (सी-1)]

श्याम मुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 3rd November, 1998

S.O. 2480.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management M/s. Indian Oil Corpn. Bottling Plant and their workman, which was received by the Central Government on 3-11-98.

[No. L-30012/55/97-IR(C-1)]

S. S. GUPTA, Desk Officer

ANNEXURE

New Delhi, the 3rd November, 1998

BEFORE SHRI GANPATI SHARMA : PRESIDING
OFFICER : CENTRAL GOVT. INDUSTRIAL

TRIBUNAL : NEW DELHI

I. D. No. 93/98.

In the matter of dispute

BETWEEN

Shri Mukesh Kumar,
Through Hindustan Engg. & Genl. Mazdoor
Union, D-2/17, Sultanpuri,, Delhi-41.

Vs.

M/s. Indian Oil Corporation Bottling Plant,
Village Tikri Kalan, Ghewra Mod,
New Delhi.

APPEARANCES :

Shri Praveen Kumar for the workman.
Shri G. S. Bhamra for Glamour India and
Shri Rajib Mishra for the I.O.C.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-30012/56/97-I.R. (C-I), dated 24-3-1998 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of M/s. Glamour India, Delhi Bottling Plant, Ghewra Mod, Tikri Kalan, Delhi in terminating the services of Shri Mukesh Kumar is legal, just and fair? If not, to what relief is the workman is entitled?”

2. The representative of the workman namely Praveen Kumar has made statement that the workman is not interested in continuing with the dispute and No Dispute Award may be given in this case.

3. In view of this statement of the representative of the workman a No Dispute Award is given in this case leaving the parties to bear their own costs.

13th October, 1998

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 3 नवम्बर, 1998

कां०आ० 2481 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में इंडियन ऑयल कॉर्पो० लि० बॉटलिंग प्लांट के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-11-98 को प्राप्त हुआ था।

[सं० एल-30012/56/97-आई. आर. (सी-1)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

S.O. 2481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Indian Oil Corpn. Ltd. Bottling Plant and their workman, which was received by the Central Government on 3-11-1998.

[No. L-30012/56/97-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING
OFFICER : CENTRAL GOVT. INDUSTRIAL
TRIBUNAL : NEW DELHI

I.D. No. 95/98

In the matter of dispute

BETWEEN

Shri Ram Niwas through
Hindustan Engg. & General Mazdoor Union,
D-2/17, Sultan Puri, Delhi-41.

Versus

M/s. Indian Oil Corp. Bottling Plant,
Village Tikri Kalan, Ghewra Mod,
New Delhi.

APPEARANCES :

Shri Praveen Kumar for the workman.
Shri G. S. Bhamra for Management, Glamour
India.

Shri Rajiv Mishra for the I.O.C.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-30012/56/97-I.R.(1), dated 24-3-98 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of M/s. Glamour India, Delhi Bottling Plant Ghewra Mod, Tikri Kalan, Delhi in terminating the services of Shri Ram Niwas is legal, just and fair? If not, to what relief the workman is entitled to?”

2. The representative of the workman namely Praveen Kumar has made statement that the workman is not interested in pursuing with this dispute and No Dispute Award may be given in this case.

3. In view of this statement of the representative of the workman a No dispute Award is given in this case leaving parties to bear their own costs.

Dated : 13th October, 1998

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 3 नवम्बर, 1998

का०आ० 2482 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै० इंडियन ऑयल कॉर्पोरेशन लि० बॉटलिंग प्लांट के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, प्रनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-11-98 को प्राप्त हुआ था।

[सं० एल-30012/57/97-आई० धार० (सी-I)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 3rd November, 1998

S.O. 2482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management M/s. Indian Oil Corpn. Ltd. Bottling Plant and their workman, which was received by the Central Government on 3-11-98.

[No. L-30012/57/97-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL : NEW DELHI

I.D. No. 94/98

In the matter of dispute

BETWEEN

Shri Satya Pal Singh,
Through The Hindustan Engg. & Genl. Mazdoor Union, D-2/17, Sultan Puri, Delhi-41.

Versus

M/s. Indian Oil Corpn. Ltd.,
Bottling Plant, Village Tikri Kalan,
Ghewra Mod, New Delhi.

APPEARANCES :

Shri Praveen Kumar for the workman.
Shri G. S. Bhamra for Glamour India Ltd.

AWARD

The Central Govt. in the Ministry of Labour vide its Order No. L-30012/57/97-IR(C-I) dated 24-3-98 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of M/s. Glamour India, Delhi Bottling Plant, Ghewra Mod, Tikri Kalan, Delhi in terminating the services of Sh. Satya Pal Singh is legal, just and fair? If not, to what relief the workman is entitled to?”

2. The representative of the workman namely Praveen Kumar has made statement that the workman is not interested in pursuing with this dispute and No Dispute Award may be given in this case.

3. In view of this statement of the representative of the workman a No dispute award is given in this case leaving the parties to bear their own costs.
13th October, 1998

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 3 नवम्बर, 1998

का.प्रा. 2483—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चित्रादुर्गा ग्रामीण बैंक, चित्रादुर्गा के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, प्रनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बेंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-11-98 को प्राप्त हुआ था।

[सं० एल-12012/42/94-आई० धार० (बी-I)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 3rd November, 1998

S.O. 2483.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Chitradurga Gramin Bank, Chitradurga and their workman, which was received by the Central Government on 2-11-98.

[No. L-12012/42/94-IR(B.I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated the 15th October, 1998

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 54/97

I Party

Shri D. Umapathy

S/o G. S. Devendrappa

Rangiri, Holalkere

II Party

The Chairman

Chitradurga Gramin

Taluk

CHITRADURGA.

Bank, P.B. No. 70

Jogimatt Road,
Chitradurga.

AWARD

The Government of India referred the dispute existing between the first and second party for adjudication on the following schedule:

"Whether the Enquiry Officer is justified in taking a period of more than 2 years to complete the enquiry to prove the charges against Shri D. Umapathy, Junior Clerk? Whether the Chairman of Chitradurga Gramin Bank is justified in dismissing Shri D. Umapathy w.e.f. 7-2-1989? If not, to what relief Shri Uma Pathy is entitled to and from which date?"

On 9-9-1997 when the case was set down for the appearance of the parties one Mr. P. S. Rajagopal, legal practitioner filed a vakalatnama for the first party. Both the first and the learned advocate failed to appear and file claim statement in accordance with rules.

This tribunal issued Court notices for both the Parties. The second party was received the notice failed to make his appearance and he has been placed ex-parte.

The first party who received the notice, failed to appear before this Tribunal. However the ex-parte order against second party was set aside later.

Since the first party failed to appear and file his claim statement and also his advocate has not made any efforts to co-operate for disposal of this reference, the only course open is to close the reference due to the default of the first party.

In the result this reference is rejected.

JUSTICE R. RAMAKRISHNA, Presiding Officer.

नई दिल्ली, 3 नवम्बर, 1998

का.प्र. 2484:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया, नई दिल्ली के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-11-98 को प्राप्त हुआ था।

[सं. एल-12012/253/97-आई.प्र. (बी.-I)]

पी. जे. माइकल, डेस्क अधिकारी

New Delhi, the 3rd November, 1998

S.O. 2484.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India, New Delhi and their workman, which was received by the Central Government on 2-11-1998.

[No. L-12012/253/97-IR (B-I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 124/98

In the matter of dispute :

BETWEEN

Shri Radhey Sham S/o Shri Sibbi Ram,
r/o F-305, Dakshin Puri, New Delhi.

Versus

The Manager, State Bank of India,
Air Force Station, Tuglakabad,
New Delhi-11.

APPEARANCES :

Shri D. K. Oberoi Manager, Staff—for management.
Shri Radhey Sham workman in person.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/253/97-IR (B-I) dated 20-5-98 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the management of State Bank of India in terminating the services of Shri Radhey Shyam, Part Time Sweeper w.e.f. September, 1995 is just fair and legal? If not, to what relief the concerned workman is entitled to and since when?"

2. The workman made statement that he has since been appointed by the management as sweeper and he does not want to continue with the dispute.

3. Management representative also made statement accordingly.

4. In view of this situation no dispute exists between the parties for adjudication. A No Dispute award is passed in this case leaving the parties to bear their own costs.

Dated : 20th October, 1998

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1998

का.प्र. 2485:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[सं. एल-12012/191/96-आई.प्र. (बी.-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2485.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 10-11-1998.

[No. L-12012/191/96-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 23 of 1997

PARTIES :

Employers in relation to the management of
Central Bank of India.

AND

Their workmen.

PRESENT :

Mr. Justice A. K. Chakravarty,
Presiding Officer.

APPEARANCES :

On behalf of Management : Mr. S. C. Ghosh,
Manager (Law).

On behalf of Workmen : Mr. M. Bhunia,
Vice-President of the Union.

STATE : West Bengal INDUSTRY : Banking

AWARD

By Order No. L-12012/191/96-IR(B-II) dated 20/24-06-1997 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Central Bank of India, Calcutta in fixing the basic pay of Shri N. K. Mandal @ Rs. 1225 at par with Shri A. B. Majhi though junior to him at the time of promotion from subordinate cadre, i.e. on 1-10-91, is legal and justified ? If not, to what relief the said workman is entitled ?”

2. Instant reference has arisen at the instance of the Central Bank of India Employees' Union (in short Union) for the relief as mentioned in the schedule of reference.

3. Union's case, in short, is that Shri M. K. Mandal the concerned workman joined the Bank's service as Peon on 15-6-1983 and was posted at Bank's Regional Office at Durgapur. His annual increment used to fall due in June every year while he was working in the subordinate cadre. His basic pay was Rs. 1050 per month as Peon on the date of his promotion to clerical cadre as per Fifth Bipartite Settlement. On his promotion as clerk on 1-10-1991 he was posted at Midnapore Branch of the Bank and consequently his annual increment was reckoned from June every year in terms of the promotion policy agreement. Fitment in the scale of pay of the concerned workman was made at Rs. 1225. One Shri A. B. Majhi who was junior to the concerned workman joined the Bank's service as Peon on 31-3-1984. His annual increment falls due on March every year. His basic pay on promotion as Clerk was Rs. 1015 as per provisions of Fifth Bipartite Settlement. He was fitted at Rs. 1225 as per promotion policy agreement which was applied in the case of the concerned workman. The grievance of the concerned workman is that such fitment of his pay on promotion

on the same basic pay of Rs. 1225 on the date of promotion has resulted in creating an anomalous position in that the concerned workman is getting lesser pay for three consecutive months of March, April and May every year than that of his junior Shri Majhi. The concerned workman made a written complaint to the Bank's Regional Office at Durgapur in respect of the anomaly in fixation of pay as mentioned above. The union submits that the concerned workman should have been fitted at Rs. 1300 in conformity of Clause 24-1.2 of the Central Office Circular No. CO : PRS : IRP : 96-97 : 10 dated 25-4-1996 and also that the management should give effect of such revised pay of Rs. 1300 with effect from 1-10-1991.

4. The management of the Central Bank of India (in short the management) in its written statement alleged that the concerned workman got promotion on 1-10-1991 and he was fitted in accordance with the promotion policy for award staff which is in terms of the memorandum of agreement dated 20-12-1975 and circulated by Central Office Circular No. CO : 91-92 : 536 dated 10-3-1992. It is further alleged that in terms of paragraph 24.7.1 of the settlement dated 23-4-1996, circulated under Bank's circular dated 25-4-1996/4-5-1996. “In respect of subordinate staff promoted to clerical cadre on or after 01-01-1987 but on or before 31-10-1992, the benefit of this fitment shall be treated as notional upto 31-12-1995 and thereby no arrears will be paid for the period upto 31-12-1995. However, the revised basic pay will be made effective from 1-1-1996 onwards”. Management accordingly claimed that the basic pay of the concerned workman was duly adjusted at Rs. 3525 with effect from 1-10-1996 with increment on 1st October each year. The management accordingly prayed for dismissal of the union's case.

5. Apart from production of documents, the union examined only the concerned workman in support of its case. None was however examined on behalf of the management.

6. Upon hearing the representatives of both sides and upon consideration of the facts of this case, it appears that there is no dispute in respect of the facts of the case. From Ext. W-1 which is the salary fixation chart of the concerned workman it will appear that his basic pay was Rs. 1050 on 1-10-1991, that is on the date of his promotion in the subordinate cadre and on his promotion his basic pay was fixed at Rs. 1125. It further appears from the salary fixation chart of Shri Asit Baran Majhi, who was admittedly junior to the concerned workman that he was promoted on the same date of 1-10-1991 when his basic pay in the subordinate cadre was Rs. 1015. His fitment of basic pay on promotion however was made at the same amount of Rs. 1225 which resulted in creating the anomalous position of the concerned workman

getting lesser pay for three months each year than what was received by his junior.

6. It shall accordingly be necessary to examine the settlements arrived at between the management and its unions in this matter. My attention was drawn to circular of the Bank dated 10-3-1992 (vide Ext. W-2) which gives the salient features of the agreement dated 5-2-1992. From paragraph 3.2 of the same circular it will appear that in respect of promotion effected during 1st November, 1997 to 31st December, 1991 there will be minimum increase of Rs. 75/-. The same position will appear from the memorandum of settlement dated 5-2-1992. In the instant case, the concerned workman was admittedly drawing Rs. 1050/- as his basic pay at the time of his promotion. If Rs. 119/- which he was drawing as special allowance along with the minimum amount of Rs. 75/- on fitment on promotion is added together, the amount shall be higher than that of Rs. 1125/- which was fixed as pay of the concerned workman on promotion. His fitment on promotion was entirely wrong. It is an admitted position that thereafter a settlement was arrived at on 23 April, 1996 between the management and All India Central Bank of India Employees Federation (recognised Majority union for award staff of the Bank). A chart in respect of fitment on promotion is provided in the said settlement. From Item No. 9 of the said chart it will appear that fixation was to be made at Rs. 1300/- in the basic pay of subordinate staff drawing basic pay of Rs. 1050/-. It is accordingly clear that the concerned workman's fitment on promotion should have been made at Rs. 1300/- on the date of his promotion i.e. 1-10-1991. The Bank has also admitted that position and the concerned workman was accordingly fitted in the basic pay of Rs. 1300/- on his promotion. The workman also admitted in his evidence in his cross-examination that "My pay was notionally fixed on 25-4-1996. By such fixation my pay of Rs. 1300/- was notionally fixed on 1-10-1991 without however giving any retrospective effect." Regarding his grievance he stated that "I have no grievance as fixation has been made in terms of the circular dated 25-4-1996 (Ext. W-3). My only grievance is about fixation of notional pay by which I was deprived of the amount payable to me and also for shifting of date of increment from June to October every year.

7. Regarding justifiability of such notional fixation, my attention was drawn to paragraph 24-7-1 of the settlement dated 23-4-1996 in terms of which this circular dated 25-4-1996/4-5-1996 was issued. It will appear from this paragraph that the provisions in respect of arrear pay is that "In respect of subordinate staff promoted to clerical cadre on or after 1-1-1987 but on or before 31-10-1992, the benefit of this fitment shall be treated as notional upto 31-12-1995 and thereby no arrears

will be paid for the period upto 31-12-1995. However, the revised basic pay will be made effective from 1-1-1996 onwards." The union being bound by the terms of this settlement neither any objection regarding notional fixation of pay nor any objection regarding payment of arrear of salary upto 31-12-1995 on such fixation can be entertained.

8. The union also has its objection regarding fixation of the date of increment of the concerned workman and according to it the initial date of increment at the time of entering into his service should remain unaltered. This Tribunal is not in a position to make any finding in respect of this matter as no such matter regarding fixation of date of increment was referred to this Tribunal for adjudication.

9. From what goes above, it is clear that the Bank was not initially justified in fixing the promotional pay of the concerned workmen at Rs. 1225/- at par with A.B. Majhi. The management, however, having rectified the mistake by fixing his basic pay at Rs. 1300/- from 1-10-1991, no question of fixation of pay at par with his junior A. B. Majhi whose fitment on promotion was made at Rs. 1225/- can arise.

10. Though the concerned workman shall not be entitled to get any benefit in terms of money because of notional fixation of his pay with effect from 1-10-1991, still then, the fixation of his pay at Rs. 1225/- on promotion being clearly erroneous as it ought to have been made at Rs. 1244/- in the minimum (Basic pay of Rs. 1050/- at the subordinate cadre + special allowance of Rs. 119/- + minimum increase of Rs. 75/-), the management shall pay him the difference of such basic pay, as fixed now along with all other consequential benefits on such fixation till 31-12-1995 when he will be entitled to get his higher pay on the basis of his notional fixation from 1-1-1996.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer
Dated, Calcutta,

The 23rd October, 1998.

नई दिल्ली, 11 नवम्बर, 1998

का.प्र. 2486.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिविलेट बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[सं. एल-12012/41/92-आई.प्रार. (बी.-II)]

सी. गंगाधरन, डैस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2486.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation

to the management of Syndicate Bank and their workman, which was received by the Central Government on 10-11-1998.

[No. L-12012/41/92-IR (B-II)]
C. GANGADHARAN, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, 21st October, 1998

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 59/92

Ist PARTY :

The Assistant State Secretary
Syndicate Bank Employees Union
No. 79, Seshadripuram,
I Main Road,
Bangalore-560020.

II. PARTY :

The Deputy General Manager,
Syndicate Bank,
Zonal Office,
II Cross, Gandhinagar,
Bangalore-560009.

AWARD

The Government of India, Ministry of Labour being satisfied that an industrial dispute exist between the above parties has referred the same for adjudication vide letter No. L-12012/41/92-IR (B-II) dated 15-7-92 on the following schedule.

"Whether the action of the management of Syndicate Bank in dismissing Shri P. N. Machaiah from the service of the Bank, is justified? If not, to what relief is the workman entitled to?"

This reference was registered and the parties were intimated to appear and file their pleadings for proper adjudication.

The first party filed the claim statement through his representative, the Assistant State Secretary, Syndicate Bank Employees' Union, Bangalore. The second party filed necessary counter statement. Initially the first party contended that the enquiry was defective, as the enquiry officer has not following the guidelines contained in the Bipartite Settlement and further the enquiry is violative of principle of natural justice. It is further contended that the punishment of dismissal is excessive and both the disciplinary authority and appellate authority have not applied their minds to mitigate the hardship of the workman by awarding a lesser punishment in the circumstances of the case. It is also pointed out that there was discrimination and victimisation adopted by the second party. Therefore he prayed to set aside the order of dismissal and award reinstatement and back wages.

The second party has contended that the misconduct committed by the first party, which was accepted and proved in the Disciplinary enquiry, warranted a punishment of dismissal and therefore there should not be any interference in the interest of banking activities of the second party.

Due to the contention raised against the domestic enquiry by the first party a preliminary issue was framed to this effect.

"Whether the departmental enquiry held against the first party is in accordance with the principles of natural justice?"

On this preliminary issue the second party examined two witnesses and closed their evidence. The first party examined himself and also examined an authorised union represen-

tative. The necessary documents relied by the parties also marked as exhibits.

This Tribunal on appreciation of both oral and documentary evidence and the procedure adopted by the Enquiry Officer, came to the conclusion that the disciplinary enquiry was fair, proper and does not call for any interference, by its order dated 15-10-98.

Thereafter the case was adjourned and learned advocates submitted their arguments on the question of victimisation and for appropriate relief u/s 11-A of the Industrial Disputes Act.

The charge levelled and proved against the first party workman may be briefly stated as follows :

The first party workman Sri Machaiah was an ex-service man, he joined the second party bank and worked for a period of 13 years without any blemish in his service records.

However during the period between 3-4-89 and 8-4-89 while he was performing the duties of the cashier, the following incident had taken place.

1. On 3-4-89, Shri P. N. Machaiah received a sum of Rs. 8700 from Sri Amjad Pasha, for credit towards his SB Account No. 11017 with the branch and in token for having received the amount, he issued him a counterfoil receipt, in order to make his believe that the amount was properly accounted for in the books of accounts of the branch. Simultaneously, he made a credit entry for Rs. 8700 in the SB Account pass book held by him and enhanced the credit balance in the pass book accordingly.

In fact, he did not account for the said sum of Rs. 8700 in the books of accounts of the branch on 3-4-89.

That thereafter, on 11-4-89 when the depositor viz., Shri Amjad Pasha visited the Branch, to withdraw money from his account, he came to know that the amount of Rs. 8700 deposited into his account by him on 3-4-89 was not credited towards his account. Therefore, he preferred a complaint to the Branch Manager on 11-4-1989 regarding non credit of Rs. 8700 towards his account on 3-4-89 pursuant thereto, the Branch Manager, vide letter No. 895 : 2431 : GEN dated 11-4-89 requested him to reimburse the said sum of Rs. 8700 immediately and called for his explanations in the matter.

- On 12-4-89 he reimbursed the said sum of Rs. 8700 to the depositor Shri Amjad Pasha and caused the amount to be credited towards his SB A/c No. 11017 with the branch on 12-4-89 itself. Simultaneously, he also addressed a letter dated 12-4-89 to the Branch Manager, interalia saying that the amount of Rs. 8700 misappropriated by him on 3-4-89 had been reimbursed etc.

2. On 8-4-89, Shri Machaiah received a sum of Rs. 4800 from Sri I. Das for credit towards his SB account No. 19655 with the branch and in token for having received the amount he issued him a counterfoil receipt, in order to make him believe that the amount was properly accounted for in the books of accounts of Branch. Simultaneously, he made a credit entry for Rs. 4800 in the SB Account pass book held by him and enhanced the credit balance in the pass book accordingly.

In fact, he did not account for the said sum of Rs. 4800 in the books of accounts of the Branch on 8-4-89.

That thereafter, on 15-5-89 when the depositor viz., Sri I. Das visited the Branch to withdraw monies from the account, he came to know that the amount of Rs. 4800 deposited into his account by him on 8-4-89 was not credited towards his account, therefore, he made a complaint to the Branch Manager on 15-5-89, regarding the non credit of Rs. 4800 towards his account on 8-4-89.

Thereafter, on 13-7-89, he caused remittance of a sum of Rs. 800 towards the above SB Account of Shri J. Das, through Smt. P. C. Accamma.

His representation exhibit M-21 dated 7-8-98 to the Dy. General Manager, giving reasons for such a lapse committed by him after unblemished services was not found favour by the Dy. General Manager. Therefore Mr. Machaiah was charged with gross misconduct of doing acts prejudicial to the interest of the bank vide clause 19.5(J) of Bipartite Settlement.

The Enquiry Officer gave a finding that the charges are proved. The disciplinary authority has accepted the report and passed an order of dismissal with immediate effect. The first party was kept under suspension immediately after the charges are framed. This order was made on 22-11-90. Mr. Machaiah appealed this order before the General Manager, the Appellate Authority. The General Manager, vide order dated 27-12-90 concurred with the order of the disciplinary authority and dismissed the appeal.

Now the necessary points that requires determination in this case are as follows :

1. Whether the Disciplinary Authority and the Appellate have exercised their discretion properly on the facts and circumstances of this case ?
2. Whether the misconduct of the workman warrants an order of dismissal ?
3. If the above points held in the negative, what relief the workman is entitled to ?

What Order ?

Point No. 1.—The conclusion reached by the Enquiry Officer is primary on the basis of the admission made by Sri Machaiah. The other evidence recorded in the enquiry, corroborated the admission. Mr. Machaiah also made his written submission during the personal hearing given by the appellate authority on 27-12-90 admitting the guilt.

In the written submission he had submitted various factors against the punishment of dismissal made by the Disciplinary Authority and requested for mercy and reduce punishment of dismissal. For proper appreciation and to invoke the jurisdiction of this Tribunal u/s 11-A of the Act the written submission is reproduced.

I submit that, the punishment of dismissal is harsh, since the amount involved in the matter has already been reimbursed and therefore, no loss to the Bank is caused.

I have been serving this Institution for the past 13 years and so far, there has never been any incident of adverse remarks to my career. I regret very much for the present guilt committed by me. Due to certain circumstances prevailing beyond my control forced to commit such mistakes.

I submit that as an ex-serviceman I joined the Bank. I served the country as a sincere and disciplined soldier. My past records both in the armed forces and Bank are unblemished and I assure to continue as such, further not giving scope for any misconduct in future.

As a Bank employee I earned many Certificates of merits also for deposit mobilisation and contribution towards the development of this great institution.

But, unfortunately, today I stand dismissed. My mistake is now going to ruin my family. I am afraid

In this submission I humbly appeal to you to be kind enough to show mercy and pardon my guilt. You may kindly give me any other punishment than dismissal so that, I remain in job to support my poor family with school-going children.

In view of the above, I hereby request you to have mercy on me and reduce the punishment of dismissal.

The Appellate Authority made a reference to the written submission made by Shri Machaiah. The Appellate Authority has not given any findings on his representation except

saying that the "case of misconduct was made to derive undue pecuniary, prejudicial to the interest of the bank and therefore the order of dismissal does not require any interference".

It is true that the adjudication authorities shall not act as an Appellate court to the reasoning given by the Appellate Authority in question, but due to introduction of Section 11-A through an amendment by the Act 45/79 w.e.f. 15-12-71, an advertent to these factors are necessary for proper application of this Section. At this juncture it is not out of place to take note of a division bench decision of Gujarat High Court in R. M. Parama vs. Gujarat Electricity Board, reported in (1982) Lab. IC 1031.

Mr. Justice Thakkar, Chief Justice, as he then was, has vented the feelings of the law as it relates to punishment on the basis of Disciplinary proceedings. The Learned judge states :

1. When difference categories of penalties can be imposed in respect of the alleged fault, one of which is dismissal from service, the disciplinary authority perforce is required to consult himself for selecting the most appropriate penalty from out of the range of penalties available that can be imposed, having regard to the nature, content and gravity of the default. Unless the disciplinary authority reaches the conclusion that having regard to the nature, content and magnitude of the fault committed by the employee concerned, it will be absolutely unsafe to retain him in service, the maximum penalty of dismissal cannot be imposed. If a lesser penalty can be imposed without seriously jeopardising the interest of the employer, the disciplinary authority cannot impose the maximum penalty of dismissal from service. He is bound to ask the inner voice and rational faculty why a lesser penalty cannot be imposed.
2. It cannot be overlooked that by and large it is because the maximum penalty is imposed and total ruination stares one in the eyes that the employee concerned is obliged to approach the court and avail of the costly and time-consuming machinery to challenge in desperation the order passed by the disciplinary authority. If a lesser penalty was imposed, he might not have been obliged to take recourse to costly legal proceedings which result in loss of public time and also result in considerable hardship and misery to the employee concerned.

Therefore it can be said that the authorities concerned have not exercise the jurisdiction in accordance with law on the facts and circumstances of this case.

Therefore I hold this point in the negative.

Point No. 2.—Section 11-A was introduced by the Act 45/71 for impassionate reasoning given in R. M. Parama case referred Supra.

Section 11-A gives discretion to the adjudication authority to satisfy itself that the order of discharge or dismissal, if not justified, the power to set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions as it thinks fit, or give such relief to workman including the award of lesser punishment in lieu of discharge or dismissal as the circumstances of the case warrants. The provision of this section indicates the adjudication authorities shall rely only the materials on record and shall not take any fresh evidence in relation to this matter for the application of this section. Therefore no judgement rendered prior to the introduction of this section, throw any light on the discretionary powers of the adjudication authorities.

References are made by the learned advocate for the second party that this Tribunal cannot exercise jurisdiction to annul the order of Disciplinary Authority and Appellate Authority.

The learned advocate relied on the following decision to derive his point :

1. Post Graduate Institute of Medical Education and Research, Chandigarh vs. Labour Court, Chandigarh and Another, Volume 74, FJR, Page 463.
2. Kottarakkara Co-operative Urban Bank Ltd. vs. A. Sreenivasan and Another (Kerala High Court) report in volume 77 FJR 377.
3. New Shorrock Mills vs. Maheshbhat T. Rao (Supreme Court) report in volume 90 FJR page 01 and
4. Disciplinary Authority cum Regional Manager and Others vs. Nikunja Bihari Patnaik (Supreme Court) report in volume 89, FJR, page 49.

In the cases cited Supra, the Hon'ble Judge refused to interfere the order of dismissal on the basis of the gravity of misconduct committed by the workman.

In the first case the delinquent was a chowkidar in the ladies hostel of the Post Graduate Institute, who was guilty of being under the influence of liquor and acting in a vulgar manner with the inmates of the hostel who are ladies.

In the second citation the decision of the Labour Court in not accepting the charges of falsification of accounts and the punishment of dismissal and ordering for reinstatement was set aside and matter was reminded to give appropriate punishment.

In the third citation the concurrent orders of the Labour Court and Gujarat High Court in allowing the workman for reinstatement and 40% back wages against the order of the dismissal was set aside as it regards to reinstatement. There was no oral or documentary evidence placed before the Labour Court which considered the entire material relating to the matter as had been placed before enquiry officer.

The fourth citation of the Hon'ble Supreme Court of India is where a Bank Officer indulged in acting beyond his authority in allowing overdrafts, passing cheques, in issuing bank guarantees, unauthorised irregular advances and allowing clean overdrafts much beyond his discretionary powers and various other misconducts which resulted in financial loss to the bank.

The intentment of Section 11-A is empowering jurisdiction to set aside the order of discharge or dismissal of a workman and directing the reinstatement. It also had discretion to mould the punishment including the award of lesser punishment in lieu of discharge or dismissal as may be warranted by the circumstances of the case.

Therefore the adjudication authorities primarily to appreciate the previous conduct of the workman and his loyalty to work until he committed a single misconduct, and nature of misconduct and telling effect it had to the organisation. The case cited at supra are the extreme acts of misconduct committed by the delinquents and facts and circumstances does not warranted interference and having this sole object in the mind, the order of dismissals were not interfered.

We may also draw analogy of a criminal case, to appreciate Section 11-A which is in par with the misconduct committed in this case. The jurisdiction to release the accused on probation of good conduct under Section 360 of Criminal Procedure Code without sending him to undergo the imprisonment and the payment of fine requires to be noted. Therefore the discretion shall be exercised judiciously with circumspection.

Under the industrial law the misconduct will be committed by an individual depending upon various circumstances. Overlooking a misconduct by the workman tend to make in-roads to other delinquents to commit such offence without any fear. But it should be demonstrated between an habitual offender with that of a person who committed an offence without mensrea.

The wife of the workman immediately approaches the bank and returned the amount with a request letter to

pardon the workman. In addition the workman also admitted his guilt and made good the amounts retained by him.

Section 11-A is intended to consider the cases of this nature by using the discretion vested with the adjudication authorities. This discretion shall be used sparingly and in a given type of cases.

In this back ground I have no hesitation to say that the order of dismissal made against the workman is too harsh and not warranted. Therefore I hold this point also in the negative.

Since this Tribunal negatived point No. 1 and 2 the consequent order requires to be passed.

While adjudicating the case of this nature the interest of the second party bank can not be ignored or over looked. Since it is discretionary order the maximum hardship to both parties shall be eliminated. Having regards to these facts and circumstances I make the following order.

ORDER

The reference is allowed. The punishment of dismissal from service passed by the Disciplinary Authority and confirmed by the Appellate Authority are hereby set aside.

The second party management is directed to reinstate Sri Machaiah to the post and grade he was holding before he was kept under suspension. The normal increment and promotional benefits to be worked out, as if he has continued in service. His salary shall be fixed to the grade he now reaches, consequent to the above directions

For the purpose of pension and other retirement benefits, the services of Sri Machaiah shall be treated as a continuous one. Shri Machaiah is entitled to get 25% (twenty five) of back wages.

Shri Machaiah shall report for work immediately, which shall not be after 2-11-1998. The second party shall provide him a suitable post to the scale of pay, that will be fixed to him in obedience to this orders.

(Dictated to Stenographer, transcribed by her, corrected by me and pronounced in the Open court on this 21st October, 1998 Wednesday).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1998

का.आ. 2487-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधन के संबंध में निर्योक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्योक्त औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-98 को प्राप्त हुआ था।

[सं. एल-12012/21/92-आई.प्रार. (बी.-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2487.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 10-12-98.

[No. L-12012/21/92-IR (B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 61/92

In the matter of dispute :

BETWEEN :

Shri Muni Kumar S/o. Shri Puran Chand,
House No. 6/364, Mohalla Hira Lal,
Mawana-250401, Distt. Meerut

Versus

Asstt. General Manager,
Syndicate Bank,
Anchlik Karyalaya,
43/28, Skylark Nawal Kishore Marg,
Lucknow-226001.

APPEARANCES :

Workman in person.
Shri Rajesh Mahindru—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/21/92-I.R. B-2 dated 6-7-92 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the claim of Sh. Muni Kumar S/o Shri Puran Chand had worked in the Syndicate Bank since 1983 and had completed more than 240 days service in a block of 12 consecutive months in every year of his service is correct? Whether his allegation that termination of his services by the management of Syndicate Bank violates Sec. 25F, G. & H. of the I.D. Act is true and if so, what relief the workman is entitled to?”

2. The workman in this case in his statement of claim alleged that he was appointed as a temporary attender on May 2, 1983 at Mawana Branch of the Bank and he continued working for 14 days and was again employed after giving intermittent breaks and he continued as such upto 30-10-84.

3. He further alleged in the statement of claim that he worked upto 17-9-90. His services were terminated without any notice retrenchment compensation or notice pay.

4. The Management in its written statement alleged that the reference has been made mechanically without application of mind and there was no existence of any industrial dispute. It has been stated in the written statement that he was not appointed as temporary attendant on 2-5-83 or in May, 84 or he continued indefinitely. He was engaged for 164 days in 3 calendar years for different purposes and was being paid Rs. 15/- per day for supply of water during the same season. He was never engaged as casual attendant neither at Mawana Branch or Rathorakhurd Branch in any calendar year and was engaged only as a daily wage for supply of water etc. Even in the year 89-90 he was engaged on daily basis and was paid on that basis and his duties were to supply water on contract basis. He was never paid on monthly basis nor was he engaged on continuous basis for doing any other job.

5. The Management examined Shri R. C. Bedi MW1 while workman himself appeared as WW1.

6. I have heard representatives for the parties and have gone through the record.

7. The contention of the workman that he continued working from 1983 does not find support from the documentary evidence produced by the parties in this case. He has

reiterated that he was paid fixed charges whenever he worked as water boy from time to time. He also admitted that whenever any regular workman used to be on leave he used to be temporary hand in his place. A perusal of the entire record clearly establish that he was initially appointed as temporary attendant on 2-5-83 at Mawana Branch where he worked for 14 days and he was re-employed as temporary attendant in May, 84. He continued working as such with intermittent breaks from time to time. From May, 83 till February, 86 he worked @ 5 per day. The number of total working days during the three calendar years was 164. He was never engaged even as casual temporary attendant continuously for 240 days either at Mawana branch or at Rathorakhurd Branch in any calendar year. The entries of the pass book account No. S.B. 8554 of the workman shows that he was never paid on monthly basis and was engaged from 89-90 on daily wages @ Rs. 15 per day. The entries made in this account clearly shows that he used to be paid after interval of few days @ Rs. 15 per day and that amount used to be credited to the account of this workman in one month sometimes. He has been paid more than twice but his rate has never been changed nor has he been paid on monthly basis. The nature of his job as such was like a contract of service. There could be no question of his retrenchment as he was not on a permanent post nor was there any relationship of regular employer and employee between the parties. The fact that he had been paid by the management for so long does not entitle him to be regularised in the employment because the regular employment can be given only through a regular process made for recruitment of persons by open advertisement. The workman in this case was never interviewed nor he applied through employment exchange nor any advertisement was issued for the post. He could not be regularised while he was working on a casual basis. The Hon'ble High Court of Madras in Writ petition No. 2558 of 1971 titled as Crompton Engineering Co. (Madras) Private Limited Vs. Additional Labour Court, Madras and others has held as follows :

“There is no principle or provision of law entitling a casual workman to reinstatement simply because he was so employed on more than one occasion or he so worked for a long period of time. Therefore, such an employee, is not entitled to reinstatement even if he had been so employed for a long time.”

7. In view of the peculiar facts of this case there is no ground to hold that the workman was entitled to reinstatement or any back wages and is not entitled to any other relief. Parties are, however, left to bear their own costs.

Dated : 28th October, 1998.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1998

का.प्र. 2488—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एवं सिन्ध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[सं० एल-12011/34/95-आई आर (बी-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2488.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Punjab and Sind Bank and their workman, which was received by the Central Government on 10-11-1998.

[No. L-12011/34/95-IR (B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI.

I. D. No. 18/97

In the matter of dispute :

BETWEEN

Punjab and Sind Bank Staff Union
Through its General Secretary,
Punjab and Sind Bank Staff Union,
E-6, Connaught Place, New Delhi-110001.

Versus

Deputy General Manager, (P)
Punjab and Sind Bank,
H.O. Personnel Department,
21, Rajender Place,
New Delhi.

APPEARANCES :

Shri Inderjeet Singh—for the workman.
Shri Jagat Arora—for the Management.

AWARD :

The Central Government in the Ministry of Labour vide its Order No. L-12011/34/95-IR (B-II) dated 31-12-96 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Punjab and Sind Bank in installing ALPM in the branches of Punjab and Sind Bank at Delhi where less than 750 vouchers are transacted per day calculated on an average of 52 preceding week is just and fair. If not to what relief the Union is entitled?"

2. The parties to this dispute made statement and filed a memorandum of settlement dated 6-4-98 the representative for the Union also submitted in writing that the matter has since been settled and no dispute award may be passed in this case.

3. In view of this situation a no dispute award is given in this case leaving the parties to bear the own costs.

Dated : 20th October, 1998

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1998

क्र.भा. 2489.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबंधन के संबंध निपोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[सं. एन-12012/156/97-आई.प्रार. (बी.-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2489.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947); the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their

workman, which was received by the Central Government on 10-11-98.

[No. L-12012/156/97-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 11 of 1998

In the matter of dispute between :
Regional Manager, Central Bank of India
88-B Civil Lines, Bareilly

AND

Sri Narndra Kumar,
S/o Ratan Lal
425 Bedi Wamanpuri,
Bareilly.

APPEARANCE :

B. P. Saxena for the workman and
Sri B. G. Agarwal for the Central Bank of India, Management.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-12012/156/97-I.R.(B-II) dated 13-1-1998, has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Bank of India in terminating the services of Sri Narendra Kumar Ex-temporary substaff w.e.f. 1-9-95 is legal and justified? If not, to what relief the said workman is entitled and from what date?

2. The case of the concerned workman Narendra Kumar is that he was engaged as a peon on 31-1-90 and he continued to work upto 30-8-95 at Sahikara Branch of the opposite party Central Bank of India. In this way he had completed for more than 240 days. Yet his services were terminated in breach of provisions of section 25F of I. D. Act;

3. The opposite party has filed written statement and has denied that the concerned workman was engaged as peon. Instead he was engaged to supply water for two or three hours. No work of peon was taken from him. Hence question of termination does not arise.

4. In the rejoinder nothing new has been alleged.

5. The first point which needs consideration is as to whether the concerned workman was engaged as a peon or as a water boy. The concerned workman Narendra Kumar W.W.1 has stated that he was engaged as a peon by the manager of the branch manager whereas S.N. Jhingaran MW1 while making deposition has stated that the concerned workman was engaged as a canteen boy and no work was taken from as a peon. The management has filed ext. M-1 to M-11 through which payments as daily rated worker was made whereas the concerned workman has filed ext. W-1 to W-5. Out of them Ext. W-2 is the report of ALC dated 9-2-97 in which he has reported that work of water boy was taken whereas payment has been shown through vouchers as labour charges etc. This paper relates to events subsequent to date of termination. It has got no relevance. Ext. W-5, W-6, W-7, W-8, W-9, W-10 and W-11 are the photocopies of peon book to show that work of peon was taken from the concerned workman. Thus on the one hand there is consistent stand of the concerned workman supported by affidavit and on the otherhand there is inconsistent stand of the bank. In the pleading it was alleged that the concerned workman was a water boy whereas in evidence it has been alleged that he was canteen boy. Apart from this the evidence of the management is belied from the entries in peon book. In between the two evidences of the concerned workman is of much better quality, hence I accept it. Accordingly it is held that the concerned workman was engaged as a peon and work of peon was taken from him.

6. As regards breach of provisions of section 25F of I.D. Act the concern workmen has stated that the time of the removal no retrenchment compensation or notice pay has been given to him and he had completed for more than 240 days. This fact has not been disputed by the management witness, hence I accept the un rebutted evidence of the workman and hold that he had completed for more than 240 days in a year and as such he was entitled for retrenchment compensation and notice pay. As this has not been done his retrenchment is bad under sec. 25F of I. D. Act.

7. In view of above discussion my award is that termination of the workman is bad and that he is entitled for reinstatement but without back wages as he was only a daily-rated worker.

dated 30-11-98

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1998

का.प्र. 2490—औद्योगिक विवाद प्राधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[सं. एन-12012/136/95-आई.प्रार. (बी-II)]

सी. गंगधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2490.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 10-11-98.

[Np. L-12012/136/95-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU, CHENNAI

Thursday, the 2nd day of July, 1998

Present :—

THIRU S. ASHOK KUMAR, M.Sc., B.L.,
INDUSTRIAL TRIBUNAL

INDUSTRIAL DISPUTE NO. 20 of 1996

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workmen and the Management of Bank of India, Madras).

BETWEEN

The General Secretary,
Bank of India Staff Union,
46, Cathedral Road,
Madras-86.

AND

Zonal Manager,
Bank of India,
South Zone, 46,
Cathedral Road, Madras-86.

REFERENCE : Order No. L-12012/136/95-IR(B.II), Ministry of Labour, dated 29-2-96, Govt. of India, New Delhi.

This dispute coming on for final hearing on Manday, the 13th day of April 1998, upon perusing the reference, claim, counter statements and all other material papers on record, upon hearing the arguments of Tvl. V. Chandrakanthan, R. Karunakaran & K. Sampath, Advocates appearing for the petitioner union and of Thiru N. Balasubramanian, Advocate appearing for the respondent-management, and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

This reference has been made for adjudication of the following issue :

"Whether the action of the management of Bank of India, Madras, in terminating the services of Shri B. T. Gunalan, Cashier-in-charge with effect from 27-4-94 is justified? If not, to what relief he is entitled?"

2. The main averments found in the claim statement filed by the petitioner are as follows :

Thiru B. T. Gunalan was working as Cashier-in-charge at Anna Nagar branch of the respondent bank. On 3-3-93, at the commencement of business hours, the cash was taken up for surprise verification by staff officer of the Regional office and the cash was counted in his presence and with presence of the Manager and it was found that an amount of Rs. 3,100/- was misappropriated by the workman and was suppressed by him by preparing currency note packets containing less than 100 pieces of currency notes. A charge sheet dt. 8-6-93 was issued to the workman quoting this misconduct being an act prejudicial to the interest of the bank under Clause 19.5.(j) of the Bipartite Settlement. Charges framed against the workman are false, motivated and invented. The concerned workman Thiru B. T. Gunalan, was the Assistant General Secretary of the petitioner-union. He alongwith other members raised demands for and on behalf of the union for the welfare of the co-employees. In order to victimise him the management invented these charges, conducted an one sided enquiry and ulti-

mately terminated the services of the charge sheeted workman. On the same day on which charge was framed, the respondent management appointed an enquiry officer and issued notice to the departmental enquiry without giving an opportunity for the charge sheeted employee to reply to the charges levelled against him. The charge sheet is irregular and the word misappropriation twice used in the charge sheet is out of context. Hence the charge sheeted employee could not defend himself effectively in the absence of specific allegation. The occurrence of cash shortage on 3-3-93 was turned as mis-appropriation by the management with mala fide intentions to victimise a trade union office bearer. The surprise verification was conducted in violation of the instructions contained in the manual of instructions of Bank of India. A surprise verification should be carried out before or after commencement or completion of business hours of the bank. In the instant case the verification commenced at the starting of the business hours of the branch and continued for 3 hours or more. Since the branch was a small branch with single cashier and once the charge sheeted workman was asked to attend to his regular work in the cash counter, his presence throughout the surprise verification was neither requested nor available. So also the Manager was also not available during the entire verification and the possession of the entire cash was left with the verification officer for some time during surprise verification and the said shortage was noticed only during this specific period. If at all an opportunity was available to anyone to misappropriate the cash, it was only to the verification officer and he should have been the prime suspect in the case and charge should have been issued against him. As per Manual of instructions, during surprise verification of cash, the Verification Officer should not handover the cash fully or partly to the cashier or to anybody until such time the verification is completed. If any shortage or excess is got during verification, the cashier should be allowed to recheck the cash and confirm to his satisfaction such a loss or excess of cash. This procedure was also not adopted by the verification officer. Only loose notes and 3 packets were counted in the safe room and remaining cash was taken out of the cash room and kept inside the cashier's room. Cashier was also allowed to accept receipts, make payments and allowed to use the cash kept inside the cash box. Due to the procedure adopted by the Verification Officer in violation of instructions, the possibilities of fixing up accountability or deducting any shortage in any packet becomes impossible since cash received and paid on 13-3-93 got mixed up with all the cash available on the close of business of the previous day. Therefore, the shortage noticed on 3-3-93 could have occurred on the same day and need not necessarily be a shortage suppressed on the previous day and thus the charge of misappropriation could not be approved against the charge sheeted employee. The allegation of cash shortage and misappropriation against the charge sheeted employee was framed behind his back. The cash was balanced and found correct by the Manager before it was kept in the dual custody on 2-3-93. The payment register would reveal that a total payment of more than Rs. 1,50,000/- was made on 3-3-93 which is far in excess of the cash received that day. The balance cash is said to have been accounted and handed over to cashier in 3 packets and loose notes. The only alternative that was available with the cashier for making payments on 3-3-93 was to take cash from the cash box which was handed over to him and lying in his possession in the cashier's counter. Therefore, the possibilities of excess payment or short receipt resulting in cash shortage on 3-3-93 cannot be ruled out. Many of the customers of the branch have interconnected transactions between them and the cash packet drawn from the branch from one customer could have come back to the bank again for depositing through another customer also cannot be ruled out. Thus the packet which was made on the particular date will be deposited in the bank on subsequent date and hand slips cannot be taken for granted for the date on which cash packet came to the possession of the cashier. When the cashier was travelling from one customer to another, the possibilities of tampering of cash do exist, and if such tampering is done without removing the hand slip, and the receiving cashier accepts it without counting them, once again this is done not only in good faith, but also for a speedy customary service. The management through their witnesses and documents have not only failed to prove the charge, but also exhibited their mala fide intention, in victimising the charge sheeted workman. To prove the character, conduct and honesty of the workman. The defence has produced four witnesses.

In appreciation of the services of the charge sheeted workman, DW2, the customer Mr. Venkataraman, whose bag containing Rs. 20,000 and other documents was found on 2-3-93 was returned by the concerned workman to him and in token of appreciation, he has sent a letter to the Branch Manager. The workman has stated that he was in tremendous pressure on 3-3-93 due to some personal problems at his house. The charge sheeted workman has not committed any act of misconduct as stated in the charge sheet and the petitioner union prays to set aside the order of dismissal of the workman as illegal and to reinstate him with back wages and other attendant benefits.

4. The main averments found in the counter statement filed by the respondent management are as follows.—A false and unwarranted background has been sought to be created by the petitioner-union, that Shri B. T. Gunalan, is the cavalier and champion of the worker's cause of the bank and fought for their cause unmindful of the consequences and the respondent management waited for an opportunity "to remove the thorn" in the guise of Shri B. T. Gunalan, from the scene and the dismissal in question is stated to be in that background. The concerned workman was like any other of his staff found by the rules and regulations of Bipartite Settlements enforceable by the bank and he had to confine his actions and transactions within the bounds of the above said Rules and Regulations and any transgressions or violations thereon would certainly bring him under Disciplinary Proceedings and that he would not stand apart or be placed in a coveted position of advantage over his colleagues. Only when the misconduct enumerated against the concerned workman leapt manifold, the management was forced to initiate action against him. As per the charge sheet, dated 8-6-93, on 3-3-93 at the commencement of banking hours, when the cash was taken out for surprise verification, and counted in the presence of concerned employee, and the Manager, it was found that an amount Rs. 3,100 was misappropriated by the workman and he had suppressed the same by preparing currency note packets containing less than 100 pieces of currency notes. As per the details given in the charge sheet, there was 34 pieces of currency of various denominations less in 10 packets making a total short fall of Rs. 3,100. The departmental enquiry was conducted and enquiry officer after holding domestic enquiry submitted his findings dated 25-11-93, finding Shri Gunalan guilty of the charges. A copy of the findings was furnished to the employee. After perusing the records of the enquiry, the Disciplinary authority found that the employee was given full opportunity to defend his case and the enquiry was held in strict adherence to the principles of natural justice and fair play. The findings of the enquiry were borne out of the evidence taken on record in the enquiry. Therefore, the Disciplinary Authority agreed with the findings of the enquiry officer that the charges contained in the charge sheet have been proved in the enquiry. After considering the gravity of the misconduct, the Disciplinary Authority proposed to impose upon the employee the punishment of dismissal from service of the bank without notice and a show cause notice dated 25-1-94 was served on him. He was also given a personal hearing on 4-2-94 to make his submissions against the proposed punishment. After the personal hearing the Disciplinary Authority considered the oral and written submissions made by the employee and finally passed orders on 27-4-94 imposing a punishment of dismissal from service without notice. The employee filed an appeal dated 8-7-94 before the Zonal Manager against the aforesaid punishment imposed on him. The Appellate Authority also gave a personal hearing on 26-4-94. After examining the appeal and submissions made by the employee and also the various records of the case, the Appellate Authority vide order dated 20-8-94 rejected the appeal and confirmed the punishment of dismissal from service. The charges alleged and proved against the employees are misappropriation of bank's fund which involves lack of integrity. Therefore, the bank cannot retain him in the services and hence the punishment awarded to him is in commensurate to the gravity of the misconduct. A clean charge of misappropriation of bank's funds was clearly stated in the charge sheet and the same was proved in the enquiry. The charge levelled against the workman is in no way connected with his membership or being an office bearer of the trade union. Enquiry was conducted strictly adhering to the principles of natural justice and reasonable opportunity was given to the workman to defend himself.

He attended the departmental enquiry alongwith his defence representative and full opportunity was given to him to peruse the documentary evidence and cross-examined the witnesses produced by the management. He was also allowed to produce his evidence both documentary and oral in the enquiry. He was also given personal hearing by the Disciplinary Authority as well as Appellate Authority. The union's contention that the Disciplinary Authority having issued a charge sheet and appointed enquiry officer immediately thereon amounts to denial of reasonable opportunity is not correct. While serving charge sheet on the workmen, he was specifically advised in writing he will be allowed to submit his explanation to the charge sheet at the time of departmental enquiry. The contention of the petitioner that the word misappropriation was twice used in the charge sheet is out of context is not true. As Cashier-in-charge the cash was counted by the workman and packets were prepared and signed on the note slips. The Joint Custodian who verified the cash daily in the evening has been following the laid down instructions as per Bank's Manual which stipulates that the joint custodian of the cash could check the cash every time before depositing the same in the vault. As per Chapter 12 para 3 of the Manual of Instructions, Volume I regarding cash and clearing, the Joint Custodian should check every time before depositing the same in the till/vault. The procedure for checking at the minimum should cover :

- (a) detailed piece by piece count of all notes of higher denomination viz., Rs. 100 and above (if in circulation) however, in the case of Rs. 100 denomination notes, if there are more than 2 bundles, first the number of bundles, and then packets of in each bundle should be counted (a bundle contains 10 packets each of 100 currency notes.) thereafter, a detailed piece by piece count of a sample lot of atleast 25 per cent of the total number of packets of Rs. 100 denomination notes should be made ;
- (b) after checking the total number of bundles and the bundles in each bundle, a sample count of notes of lower denominations made by the "Clip" system. The Joint Custodian should use his discretion as to the number of sample packets to be checked on clip system basis ;
- (c) piece by piece count of all loose currency notes.
- (d) sample check of Rupee coins and small coins. The Joint Custodian may use his discretion as to the extent of such sample pack.

NOTE.—Under the "clip" system, the Checking Officer (i.e. the Joint Custodian) clips a certain portion of the notes from the selected packet and asks an Officer/Cashier other than the cashier-in-charge to count in his presence the pieces "unclipped". Thereafter the Checking Officer counts the pieces in the clipped portion and verifies that the total number of pieces counted by himself and the other cashier/officer amounts to 100 pieces.

The workman cannot take advantage of the fact that the daily cash book on 2-3-93 was signed by the Manager after counting. Loose notes were counted by the Manager and sample checking was also done. Packets were prepared by the workman with less notes to cover up the misappropriation, thinking that the Manager would check only the loose notes piece by piece. The packets of currencies which were found containing less than 100 pieces were produced in the enquiry intact with the note pins and also the note slip bearing the signature of the workman. This evidence has not been disputed by the workman in the enquiry. It was admitted by the petitioner that the packets did not contain 100 pieces of currencies and there was short fall of an amount of Rs. 3,100 in 10 packets. The contention of the petitioner that the charge pertained to occurrence of cash shortage on 3-3-93 and not a misappropriation is not in conformity with facts. The short fall in cash was found in packets of currencies prepared and signed by the workman on 27-2-93, 28-2-93, and 2-3-93. Even assuming without admitting that there was only shortage of cash, it would not have recurred in as many as 10 packets which were prepared on 3 different dates. There has been no violation of the instructions regarding conduct of surprise check of cash as alleged. Para 59.2 of the Manual provides

that all cash (all currency notes and coins) should be kept out of the cash safe or strong room by the sepy in the presence of the cashier or his assistance. As per the statement of the Officer who conducted surprise verification, the surprise verification on 3-3-93 was conducted at 9 hrs. in the presence of the Manager and Cashier-in-charge (the workman in this case). The entire cash except the bait money was taken out from the Till for counting. After completing the counting of the loose, notes and two packets of Rs. 100/- denomination and one packet of Rs. 50 denominations they were given to the cashier (the workman) for the payment for that day. The remaining packets were brought to the cashier's cabin in a locked box. The Inspecting Officer sat at the cabin next to the Cashier while the workman sat in the adjacent cabin and started the day's payment/receipts. The Inspecting Officer collected the dealt packets one by one from the workman and counted the same. When the shortage in one of the packets were observed by the Inspector and brought to the notice of the Cashier, the workman handed over another packet to the Inspecting Officer after removing the note slip and the Inspecting Officer found that the workman was trying to remove the pin also. Then the Manager was called by the Inspecting Officer to be present till the entire cash was counted and the entire cash was collected from the Cashier for counting. This evidence has been given by the Inspecting Officer who appeared in the enquiry as Management witness. All the packets of currencies wherein shortage was found were shown to the workman intact with the pin and the note slip bearing his signature except the one packet where the note slip was removed by the workman while giving for checking. The workman also signed the inspection report wherein the shortage was recorded and the same has been produced as Management exhibit in the enquiry. The contention of the workman that there was scope for tampering of cash packets which had become possible for certain other people like cash peon, daftary, who carried cash box from the cash safe to the Cashier's cabin, is an after thought and totally false. Apart from the fact that the shortage was acknowledged at the time of inspection and also during the enquiry, as per the evidence taken in the enquiry, the cash was brought to the cash cabin in a locked box and hence there was no scope for any other person to tamper with the cash. In terms of the Procedure and Manual instructions, the joint custodian need not make piece by piece count of all the bundles kept in the currency cash check. The workman could not shift his responsibility for the shortage in the sealed benefits wherein his signatures appears with the joint custodian. The contention of the petitioner-union that the shortage of cash has occurred on 3-3-93 while making payments and receipts at the counter and should be considered as occupational hazard is contrary to the facts and evidences is contrary to the facts and evidences brought out in the enquiry in as much as the shortage cash was found in 10 packets of currency prepared by the workman on 27-2-93, 28-2-93 and 3-3-93, and this fact has been accepted by the workman in his deposition and statement given to the bank. The contention of the union that the verification officer had the chance and possibility of misappropriation of cash appears to have been made to raise counter allegations against the officer who detected and reported the misconducts of workman and hence it is all motivated. The documents pertaining to transactions in the workman's account and Branch Manager could not be concluded extraneous or irrelevant since the documents showed that the workman was indebted and had borrowed money. The enquiry proceeding clearly revealed that the charge levelled against the workman has been proved by the deposition of the management witnesses and the documentary evidences produced in support of the charges. The evidences produced by the defence were of no relevance to the charge which was specifically levelled against the workman. The deposition of the defence witnesses were only bringing out story relating to the good deeds done by the workman in the past and have no relevance to the charges levelled against the petitioner. The workman has deposed as a witness for himself in the enquiry, but did not bring out any evidence to contradict the evidence produced by the management in support of the charges. The workman has stated that the shortage of cash as brought out by the verification officer was made good by the workman by remitting the amount in the bank, which amounts to an admission of the fact that the workman had misappropriated the cash.

The business of banking essentially deals with money and the quality of absolute trustworthiness and integrity is a pre-requisite for successfully carrying on its business. When this element of trust-worthiness and integrity was lacking in the employee was abundantly proved in the present case it would have been suicidal for a banking institution to continue in service such a person. There is absolutely no justification for the reinstatement of the petitioner viz., Shri B. T. Gunalan, with or without wages. The respondent prays to dismiss the claim.

5. No witness was examined on behalf of both sides. Ex. W1 to W-13, Exs. M.1 and M.2 were marked by consent.

6. The Point for consideration is: Whether the action of the management of Bank of India, Madras in terminating the services of Thiru B. T. Gunalan, w.e.f. 27-4-94 is justified? If not, to what relief he is entitled to?

7. The Point: Thiru B. T. Gunalan was Cashier in the Anna Nagar branch of the respondent bank. On 3-3-93, at the commencement of business hours, cash was taken out for surprise verification by Staff Officer of the regional office and cash was counted in his presence and in the presence of Manager and it was found that Rs. 3,100 was misappropriated by the workman and was suppressed by him by preparing currency note bundles containing less than 100 pieces of currency notes. A charge sheet dated 8-6-94 was issued to the workman quoting this misconduct as one coming under Clause 19.5(j) of the Bipartite Settlement. The charge sheet issued to the workman is Ex. W-6. The report of the Verification Officer is Ex. W-2. The letter of the Manager of Anna Nagar branch to the Regional Manager informing the shortage of cash of Rs. 3,100 is Ex. W-1. On 3-3-93 itself the employee Thiru Gunalan was required to give an explanation for the shortage and also to make good the shortage within 24 hours as per letter dated 6-3-93 Ex. W-3. The reply of the employee to the Manager dated 6-3-93 explaining circumstances under which the shortage occurred is Ex. W-4. The report of the Branch Manager to the Regional Manager about the surprise verification of the cash and the shortage is Ex. W-5. Thereafter departmental enquiry was conducted on the charges against the employee. Enquiry Officer held a domestic enquiry and enquiry proceedings are Ex. M.1. In the enquiry, two witnesses have been examined on behalf of the management and four witnesses have been examined on behalf of the charge sheeted employee. Enquiry Officer found Thiru Gunalan guilty of the charges and the findings of the Enquiry Officer are Ex. M-7. Accepting the findings of the Enquiry Officer the Disciplinary Authority issued a second show cause notice Ex. W-8 dated 21-1-94, proposing the punishment of dismissal from service. The charge sheeted employee has sent a reply Ex. W-10 to the second show cause notice and he has also submitted his written submissions in the personal hearing which is Ex. W-9. The Disciplinary Authority has passed final order Ex. M.2 dismissing the workman from service without notice. The concerned employee filed Ex. W-11 appeal which was also rejected by the Appellate Authority by his order dated 30-8-94 which has been marked as Ex. W-12. The letter of appreciation dated 2-3-93 given by a customer to the Branch Manager is Ex. W-13.

8. The learned counsel for the petitioner submitted a memo on 8-1-98 to effect that though several legal issues have been raised in the claim statement, the petitioner would confine to the only legal issue that the punishment imposed on the said workman is grossly disproportionate and this Tribunal should interfere under Section 11-A of the I.D. Act. In the written arguments submitted on behalf of the petitioner also, the petitioner has prayed for interference u/s. 11-A of the I.D. Act to set aside the order of dismissal of service by awarding any lesser punishment in lieu of termination of service. In support of the contention of the petitioner that the punishment of dismissal from service is unduly harsh and highly disproportionate to the misconduct proved against the workman, the petitioner has cited a judgement of the Division Bench of our Hon'ble High Court reported in 1997 H I I N 1176, S. Murugadass Vs. State Bank of India, for the misconduct of obtaining a payment of Rs. 2,728 by way of reimbursement in respect of journeys allegedly performed by him in claiming Leave Travel Concession. In this case, the Hon'ble High Court has held as follows:

"Sri D. Murugesan, has not also seriously argued the case on merits. However he pleaded for change in the punishment. According to him, the punishment imposed was not only disproportionate, but also very harsh and excessive, taking into consideration of the offence said to have been committed by the appellant. Further more, Sri G. Masilamani, learned Additional Solicitor General, was very serious in reply to the said argument. According to him, the authorities in imposing the punishment of dismissal has taken into account the circumstances, namely, the gravity and serious nature of the misconduct making false monetary claims based on false and fabricated vouchers and documents in an financial institution where utmost integrity on the part or its employee is to be expected. He further submitted that the amount involved though a nominal one cannot be a ground for altering the punishment already imposed by the authorities concerned. We are unable to accept the said contention of the learned Additional Solicitor General, while agreeing with the other contentions, and submissions of the learned Additional Solicitor General. We are of the view that the punishment imposed is not only harsh, excessive but also disproportionate to the charges made against the appellant. In fact, the Supreme Court in the case of B. C. Chaturvedi Vs. Union of India (AIR 1996 SC 484) held that the disciplinary authority and on appeal to the appellate authority are invested the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct, and that the High Court/Tribunal while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. It is further stated that if the punishment imposed by the disciplinary authority or the appellate authority shocks and conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the irrigation, it may itself, in exception and rare cases, impose appropriate punishment with cogent reasons in support thereof. Thus, strengthened by above observation of the Supreme Court, we now proceed to consider as to whether the punishment of dismissal imposed by the authorities concerned is disproportionate as alleged or just and reasonable as contended by the management. The charge against the appellant was that he obtained payment of Rs. 2,728 by way of reimbursement in respect of journeys allegedly performed by him partly by bus and partly by taxi by producing support of his claim a trip sheet in respect of taxi No. TMV 5444 covering a period from December 2, 1983 to December 11, 1983, which trip sheet was reported as a fabricated one. It is also not in dispute that the said sum of Rs. 2,728 has also been recovered from the appellant. Though an explanation was made by the appellant that though in fact he performed the journey, his explanation was not accepted by the disciplinary and appellate authorities. Past records of service of the appellant has nothing to indicate either way. The appellant is also aged about 32 when he filed the writ petition in the year 1986. The appellant was appointed in the bank as a Clerk-Typist on October 12, 1978 and the impugned order of dismissal was passed by the 2nd respondent by his order dated September 16, 1985. The bank also did not place before the Court any other record to show that his service with any blemish except for the charges in question. Both the appellant and the bank management had spent about 12 years as on date in fighting the litigation in one forum or the other. The appellant has got another about 13 to 14 years of service, in the bank. The appellant has not played with any customer's account/amount and the only charge was that he claimed reimbursement of some amount alleged to have been spent by him. We are of the view, for the misconduct committed by him, such deterrent punishment of dismissal is not called for. It is also pointed out on behalf of the appellant that in respect of other

employees who committed acts of misconducts similar in nature as committed by him. Only minor punishment was imposed. But such contention of the appellant was brushed aside by the management simply on the ground that the acts committed by the appellant are not comparable with that of the others. We are of the view that the imposition of such an extreme and harsh punishment would once for all ruin the career of the employees. Therefore, we feel that the appellant should be made to forego the entire salary for the period from the date of its being charged memo till today. Such a punishment, in our opinion, would meet the ends of justice."

Another case cited by the learned counsel for the petitioner to show that the punishment is disproportionate to the misconduct found proved is the *Judgement of Hon'ble High Court of Judicature at Punjab and Haryana*. In 1997 1 LLN 462, *Punjab Tourism Development Corporation Ltd., Chandigarh Vs. Labour Court, Amritsar and Others*. The said judgement has been delivered with regard to the misconduct of an employee who was found playing cards in the Tourist information centre when the Manager of the Corporation paid a surprise visit at Youth Hostel. The said employee was dismissed by the Tourism Development Corporation for the above misconduct. Labour Court, by invoking provisions of Section 11A of the I.D. Act, 1947 modified the punishment, ordering of termination from service as one of stoppage of three increments without cumulative effect. In the said case the Hon'ble High Court of Punjab and Haryana, has held that for the misconduct of playing cards at about 6.25 p.m. in the Youth Hostel by an employee of the Tourist Information Centre, the punishment is harsh. On an appeal by the Punjab Tourism Development Corporation the Hon'ble Division Bench of the High Court of Punjab and Haryana has dismissed the writ petition holding that the Labour Court is not only possessed with the power to interfere with the punishment awarded by the employer in an appropriate case but it has a duty to examine the issue of punishment awarded by the employer and decide for itself whether the punishment is justified or not. If the Tribunal or the Labour Court comes to a conclusion that the punishment is unduly harsh or highly disproportionate to the misconduct found proved the Court/Tribunal can interfere with the awarding of punishment. This case has been dealt with a minor misconduct of playing cards by an employee. Whereas the case on hand is one of misappropriation. Therefore, the facts of this case do not apply to the case on hand.

As regards the power of the Labour Court/Tribunal to interfere with the punishment of dismissal u/s. 11A of the I.D. Act, the Hon'ble Supreme Court has given certain guidelines as quoted in 1988 SC 37 C. M. CH Employees' Union Vs. C. M. C. College, Vellore Association. Supreme Court has held as follows:

- n *Indian Iron and Steel Co. Ltd. Vs. Their Workmen*, 1958 SCR 667: (AIR 1958 SC 130) this Court has observed that the powers of an industrial tribunal to interfere in cases of dismissal of a workman by the management are not unlimited and the Tribunal does not act as a court of appeal and substitute its own judgement for that of the management. It will interfere (a) where there is want of good faith; (b) when there is victimisation or unfair labour practices; (c) when the management has been guilty of the basic error or violation of the principles of the natural justice; and (d) when on the materials before the Court the finding is completely baseless or perverse. It cannot, therefore, be said that the Industrial Tribunal or the Labour Court will function arbitrarily and interfere with every decision of the management as regards dismissal or discharge of a workman as alleged in a disciplinary enquiry. The power exercisable by the Industrial Tribunal or the Labour Court cannot, therefore, be equated with the power of 'veto' conferred on the Vice-Chancellor under Cl. (h) of either of the two subsections of S. 51-A of the Gujarat University Act, 1949. As we have already said earlier the decision of the Industrial Tribunal or Labour Court is open to judicial review by the High Court and by this Court on appeal. Section 11-A of the Act which

confers the power on the Industrial Tribunal or the Labour Court to substitute a lesser punishment in lieu of the order of discharge or dismissal passed by the management again cannot be considered as conferring an arbitrary power on the Industrial Tribunal or the Labour Court. The power under S. 11A of the Act has to be exercised judicially and the Industrial Tribunal or the Labour Court is expected to interfere with the decision of the management under S. 11A of the Act only when it is satisfied that the punishment imposed by the management is highly disproportionate to the degree of the guilt of the workmen concerned. The Industrial Tribunal or the Labour Court has to give reasons for its decisions. The decision of the Industrial Tribunal or the Labour Court is again, as already said, subject to judicial review of the High Court and this Court."

The concerned workman was the only cashier at Anna Nagar branch of the respondent bank. The honesty and integrity expected of from an employee of a bank has been well said by a Hon'ble Judge of the Karnataka High Court (1996) 85 FJR P 277. *D. Padmanabhudu and Other Vs. Bank of India*, as follows:

- (i) that a bank is the custodian of the money of the customers and the cashier is a person who deals with the money and he must be more diligent and honest and justify the trust reposed in him by the bank and by the customers. If once the customers lose the confidence in the dealings, the entire organisation suffers since the confidence of the customers is the basis on which the entire edifice of the banking system is built;
- (ii) that the intentional temporary retention of the money which did not belong to a person was also misappropriation and mere repayment would not absolve the liability or the misconduct committed by the first respondent. When once money is put into a bank by a customer, the bank owes a duty to repay the money to the customer;
- (iii) that caste should not be a ground while appreciating facts and law in a given case;
- (iv) that the act of the first respondent amounted to misuse of office or betrayal of the trust shaking the very confidence reposed by the customer in the banking custom;
- (v) that it is settled law that when the confidence is reduced or a responsible post is misused or a sensitive or a strategic position is abused, the Court should not lightly consider the same and grant relief. To reinforce confidence in the mind of the customers, stringent punishment is essential.
- (vi) that setting aside the dismissal of the first respondent and reinstating him in service might demoralise the petitioner-organisation and breed indiscipline. This was not a case where a certain trivial misconduct was committed. The intention of the first respondent was exhibited by false entries and the act of misappropriation had been proved by overwhelming evidence and admission of the first respondent. The interest of an individual cannot override or be compromised when it is a question of maintaining discipline in a banking organisation."

In a very recent judgement reported in 1998 (3) SCCP 118, the Hon'ble Apex Court has held as follows:

"It needs to be emphasized that in the banking business absolute devotion, diligence, integrity, and honesty needs to be preserved by every bank employee and in particular the bank officer. If this is not observed, the confidence of the public/depositors would be impaired. It is for this reason, we are of the opinion that the High Court had committed an error while setting aside the order of dismissal of the respondent on the ground of prejudice on account of non-furnishing of the inquiry report findings to him."

From the judgements cited above, it is clear that a person employed in the bank should be diligent, honest and justify the trust reposed in him by the bank as well as by the customers and the international temporary retention of money was also a misappropriation. In this case, the charge against the petitioner is that the misappropriated Rs. 3,100 by bundling certain packets with less number of currency notes. The enquiry officer has given detailed discussions to hold that the shortage could not have occurred on 3-3-93, because the misappropriation took place on 27-2-93, 28-2-93, and 2-3-93, by taking away few notes from currency bundles of denomination of Rs. 50 and Rs. 100. Enquiry officer as also given the reasons for holding that it is not a shortage but misappropriation. Now the petitioner has not attached either the enquiry proceedings or the findings but his only contention is that the punishment of dismissal from service is grossly disproportionate to the misconduct proved. The learned counsel for the respondent submitted the following citations, in support of the contention that the punishment of dismissal from service is not disproportionate to the misconduct proved against the employee. In 1986 II LLJ P 85 Seeralan Vs. Presiding Officer II & Ors., our Hon'ble High Court has held as follows :

"Regarding the charge of theft, both the Disciplinary Authority and the Tribunal, on a meticulous analysis of evidence on record, have held that the charge had been proved. Once such a finding is rendered, which is an offence punishable under Indian Penal Code, it would be against interests of other workmen and industrial development, if adequate punishments are not imposed when offences under Indian Penal Code are established. He could have been prosecuted. Company having chosen to proceed by a domestic enquiry, based on the Standing Order, this Court considers that there is very little scope for generosity to be shown or to bring into existence minor punishment for such derelictions. Committing theft had been considered as a penal offence in the interest of a society to maintain law and order in the country and to strike out standards, when they occur in industries, would be detrimental to the interests of the Nation, if a different approach is made mainly because he is a workman under I.D. Act. Hence, the punishment imposed by the Tribunal, is rather on the concessional side, and the fervent plea put forth by Mr. Devadas, learned counsel for the petitioner, to order reinstatement is an unreasonable condition."

The misconduct alleged against the workman concerned is that while employed as a Stores Attender in a Canteen run by the management, he was concealing in his hip packet 102 canteen tokens valued at Rs. 24.48. The Hon'ble High Court has held that the punishment of dismissal from service even though the concerned employee had put in 17 years of unblemished service is not disproportionate and the punishment of dismissal is proportionate to the gravity of the misconduct. In the case of an employee who got himself empanelled as badli workmen, by suppressing his real educational qualification and produced false certificate of lesser education qualification against termination of service, the Hon'ble Apex Court has held as follows :

1994 II LLJ at 888 Kerala Solvent Extractions Ltd., Vs. A. Unnikrisnan

"In recent times, there is an increasing evidence of this, perhaps well meant but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the Courts must be seen to be logical and tenable within the frame work of the law and should not incur and justify the criticism that the jurisdiction of Courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of the legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to the principle and supportable on those findings expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situation and denude the judicial process of its dignity, authority, predictability and respectability."

In this case, we have no hesitation to hold that both the Labour Court and the High Court have erred. We allow the appeal, set aside the orders of the Labour Court and of the High Court in the Writ petition and dismiss the dispute raised by the respondent before the Labour Court."

Again a Division Bench of our Hon'ble High Court in 1997 I LLN P 391 Dharmapur Dist. Co-op. Sugar Mills, Palacode Vs. Labour Court, Vellore K. Tiruvengadam in a case of negligence, dishonesty and temporary misappropriation and demand of bribe of Rs. 100 the Hon'ble High Court has held as follows :

"An analysis of the above judgements the position that emerges is that the Court should not entertain a misplaced sympathy towards a workman and should not prejudice the issue from the angle of rehabilitation. The question of rehabilitation and reformation could arise in a case of minor delinquency of misconduct. Where the charges are grave in nature, can the Labour Court exercising power under S. 11A of the Act impose on a management a workman whose presence is likely to affect the morale and discipline of the entire factory? Should the management be embarrassed by denying the managerial function to which a management is entitled having regard to the facts and circumstances of the case. In our opinion, the acceptance of such a proposition would only lead to interfering with the managerial functions to the extent of destroying the discipline in the entire factory. We are deeply of the opinion that S. 11A of the Act was introduced to obviate the difficulty felt by the Labour Courts, Tribunal, etc., in modifying the judgements of discharge, or dismissal on flimsy grounds solely with a view to render justice to the parties. The Labour Courts and Tribunals cannot mechanically use the words "the punishment being disproportionate to the charges". As observed by the Supreme Court of India unless the Labour Court finds the punishment to be highly disproportionate to the charges, the Labour Court should not interfere". A careful analysis of the judgement cited by Sri N.G.R. Prasad only suggests that in cases of minor misconducts like the use of abusive language or acts amounting to loss of confidence in the management, the respective managements should not resort to the punishment of dismissal. One can easily see the line of thinking of the Supreme Court of India in relation to the minor and major misconducts. It is time to remind ourselves about the three charges held proved by the Labour Court itself. The first charge relates to the negligence in the performance of duties causing considerable embarrassment to the management. This charge by itself may amount only to loss of confidence, but the second charge relates to dishonesty and temporary misappropriation. It was sought to be argued that temporary misappropriation cannot be equated to theft. It may be so. But the intention of the worker and his general attitude are clearly visible from the proof of the said charge. The third charge relates to the demand of bribe of Rs. 100 from one Balasundaram and Rs. 200 from P. K. Natesan. This in our view, is a very serious charge and could undermine the very reputation of the management. We are of the opinion that when the Court is faced with three charges, all of which have been proved by evidence adduced before the Labour Court itself, it would be improper to have any misplaced sympathy in favour of the worker. The question of rehabilitation would only result in the destruction of discipline and morality in the entire factory. Section 11A of the Act was not certainly intended to cause such an embarrassment to the management."

From the judgements cited above, it is clear that for an employee who has committed misappropriation, irrespective of the amount involved, the appropriate punishment is dismissal from service. The judgement cited by the petitioner in 1997 II LLN P 1776, is for an employee for false monetary claims based on false travelling vouchers wherein the Hon'ble High Court has held that the punishment of dismissal from service is disproportionate. But as referred to in 1986 II LLJ P 85, 1994 II LLJ P 888, 1997 I LLN P 391, our Hon'ble High

Court and Hon'ble Apex Court have held that an employee who deals with the money, and who must be more diligent and honest and justify the trust reposed in him and when the confidence is reduced or a responsible post is misused or a sensitive or strategic post is mis-used, the Court should not lightly consider the same and grant relief and to re-impose the confidence in the minds of the customers, stringent punishment is essential. There is also evidence that when the misappropriation was found at the time of surprise verification the concerned employee pleaded with verification officer as well as Branch Manager not to report the matter to the Regional Officer and prayed for permission to remit the amount and he has remitted the amount as directed by the Branch Manager. In light of the various judgements cited above, there is no merit in the contention of the petitioner-union that the punishment imposed on the petitioner is grossly disproportionate. There is substance in the contention of the respondent management that the business of banking essentially deals with money and the quality of the absolute trustworthiness and integrity is a pre-requisite for successful carrying on its business and when this element of trustworthiness and integrity was lacking in the employee, was abundantly proved in the present case, it would be suicidal for a banking institution to continue in service such a person. In the above circumstances the claim is dismissed.

In the result, award passed rejecting the claim of the petitioner-workman. No costs.

Dated, this the 2nd day of July 1998.

S. ASHOK KUMAR, Industrial Tribunal,
WITNESSES EXAMINED

For both sides : Nil.

DOCUMENTS MARKED

For Petitioner-management :

- Ex. W-1/3-3-93 : Xerox copy of Surprise verification report.
- Ex. W-2/3-3-93 : Complaint (xerox copy).
- Ex. W-3/3-3-93 : Memo issued to the petitioner (xerox copy).
- Ex. W-4/6-3-93 : Explanation of the petitioner (xerox copy).
- Ex. W-5/16-3-93 : Communication from Branch Manager to the Head Regional (Xerox copy).
- Ex. W-6/8-6-93 : Charge memo alongwith appointment of Enquiry Officer and Presenting Officer (xerox copy).
- Ex. W-7/24-11-93 : Report of the Enquiry Officer (xerox copy).
- Ex. W-8/21-1-94 : Second show cause notice issued to petitioner (xerox copy).
- Ex. W-9/4-2-94 : Proceedings of personal hearing given to petitioner (xerox copy).
- Ex. W-10/4-2-94 : Reply of petitioner to 2nd show cause notice (xerox copy).
- Ex. W-11/6-7-94 : Appeal preferred by petitioner (xerox copy).
- Ex. W-12/20-8-94 : Appellate order (xerox copy).
- Ex. W-13/ : Letters of appreciation given to petitioner (xerox copy).

For Respondent-management :

- Ex. M-1/ : Enquiry proceedings (xerox copy)
- Ex. M-2/ : Final dismissal order (xerox copy).

नई दिल्ली, 11 नवम्बर, 1998

का.आ. 2491.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधन के संबंध निधोजकों और उनके कर्मचारों के बीच अनुरोध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण 1, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[ग. एल-12012/262/96-आई.आर. (बी-11)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2491.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-I, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 10-11-98.

[No. L-12012/262/96-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT
HYDERABAD

PRESENT:

Sri C. V. Raghavaiah, B.Sc., B.L., Industrial
Tribunal-I Hyderabad.

Dated : 18th day of August, 1998
Industrial Dispute No. 50 of 1997

BETWEEN

The General Secretary, Dena Bank,
Employees Union, C/o Dena Bank,
Bank Street, Hyderabad-500 001. . . Petitioner.

AND

The General Manager(P), Dena Bank,
Head Office, Maker Towers, Cuffe Parade,
Bombay-400 005. . . Respondent.

This case coming before me for final hearing on 13-8-98 in the presence of Sri Prithvi Raj, representative for the petitioner and Sri Parmeswar. G, representative for the respondent and having stood over to this day for consideration, the Court delivered the following:

AWARD

The Government of India, New Delhi by its order No. L-12012/262/96-IR(B-II), dt. 29-7-97/5-8-97 referred the following dispute U/s. 10(1)(d) and Sec. 2(A) of the Industrial Disputes Act, 1947 to this Tribunal for adjudication :

"Whether the action of the management of Dena Bank, Hyderabad is justified in imposing the punishment of dismissal from service in respect of Sh. L. Viswambaram, Sub-staff with

effect from 12-1-1994? If not, to what relief the said workman is entitled?"

The cause of the workman was taken up by the employees union represented by the Secretary. Both parties appeared and filed their pleadings.

2. In the claim statement filed by the union, it is stated that the workman Sri. L. Viswambaram, worked as sub-staff in Gaganmahal Branch of the respondent Dena Bank. While so he was served with charge sheet vide letter No. BRO|PER|DISC|54|92, dt. 3-9-92 for alleged misconduct i.e., for removing the specimen signature card of Sri Girish C. Kapashi, a saving bank account holder from the branch record without authority and tempering the same. (2) he has issued for himself one withdrawal slip in an unauthorised manner on 29-4-92. (3) he has shown the specimen signature card to outsider and forged the signature of the account holder with his help on the withdrawal slip and (4) that on 4-5-92 he has written token number on the reverse of the withdrawal slip and took up the token issue register to the accountant for, passing during the temporary absence of SB Ledger clerk from his seat and finally he got the instrument passed by the passing officer by personally taking the same to him and took the cash amounting to Rs. 4,000 by presenting the instrument to the cashier.

3. The respondent appointed an enquiry officer to hold enquiry in respect of charges. He gave report finding the worker not guilty of any of the above charges. But the disciplinary authority did not accept the report of the enquiry officer and dismissed the workman from service by its Memorandum No. BRO|PER|069|94, dt. 6-1-94. The Appellate Authority confirmed the order of the disciplinary authority who based his finding on Ex. M3 confession statement said to have been given by the worker. It is alleged that the said statement was not given voluntarily by the worker but was extracted with false promise that the management will take lenient view and no action will be initiated. But the management contrary to its promise made the worker scape goat as it could not identify the real culprit and to save the other employees who were negligent in their duties and similarly for the same reason the workman was forced to admit the charges levelled against him. It is thus contended that the action of the respondent is not justified and punishment imposed on the worker is against the principles of natural justice. It thus prayed to set aside the order of dismissal passed against the worker and to reinstate him with all attendant benefits.

4. The respondent/management filed a counter contending that the action of the respondent is justified as the workman is guilty of gross misconduct and as the Bank has to keep the confidence reposed in it by the customer intact. It admitted that the workman who worked as sub-staff was dismissed from service as the disciplinary authority came to the conclusion that he is guilty, on consideration of the material placed on record independently and giving reason for not accepting the finding of the enquiry officer. It admitted that the appeal preferred by the workman was dismissed. It contended that the worker admitted by the offence by giving confession statement on 7-8-92, authorisation letter for recovering the misappropriated sum of Rs. 4,000 from his salary and he also admitted

the charges in his explanation dt. 12-9-92. In spite of admission of the worker departmental enquiry was ordered. It is contended that disciplinary authority is not bound to accept the report of the enquiry officer who found the workman not guilty of all the charges.

5. It contended further that after giving opportunity to the worker, the finding of the enquiry officer was reversed and dismissal order dt. 6-1-94 was passed. It denied that confession statement and admission are extracted from the worker by giving false promise. Thus according to the respondent, the order of dismissal passed against the workman is valid and there is no violation of principle of natural justice. It prayed for answering the reference against the petitioner holding that it is devoid of merits.

6. The point for consideration is :

"Whether the petitioner/workman is entitled to the relief of reinstatement with back wages and other attendant benefits?"

7. Point : The validity and legality of report of the enquiry and procedure followed by the enquiry officer is not challenged. Neither side adduced any oral evidence in this Tribunal. On behalf of management Ex. M1 to 28 are marked with consent while no documents are marked on behalf of the workman. Both parties filed written arguments in support of their contentions.

8. Admittedly the workman L. Viswambaram, who worked as sub-staff in the Gaganmahal Branch of respondent Dena Bank was dismissed from service by the disciplinary authority under Ex. M25 memorandum dt. 6-1-94. He was served with Ex. M1 charge sheet dt. 3-9-92 wherein the above 5 instances of misconduct are mentioned. He was later supplied with Ex. M2 corrigendum of the charge sheet dt. 24-9-92. The list of charge is that he misappropriated Rs. 4,000 by withdrawing the same on 4-5-92 from the account of one Sri Girish C. Kapashi by forging the signature on the withdrawal slip taken in unauthorised manner on 29-4-1992 and with the help of the specimen signature card of the account holder by removing it unauthorisedly. The worker gave Ex. M3 explanation on 12-10-92 admitting the charges and stating that he has already given confession statement and a letter for deduction of Rs. 500 per month from his salary to make good the amount withdrawal by him. Ex. M4 is the letter dt. 2-11-92 appointing one AVL Rao as enquiry officer marking copy to the delinquent. Ex. M6 is the letter dt. 13-11-92 appointing one V. V. S. Jogeswara Rao to act as presenting officer. Ex. M7 is the proceedings of the enquiry officer. Ex. M12 is the alleged confession statement dt. 7-8-92 of the delinquent marked as Ex. M3 in the departmental enquiry. Ex. M14 is the letter dt. 12-10-92 given by the delinquent to deduct Rs. 500 from his salary which is marked as Ex. M5 during the enquiry. Ex. M10 is the Cheque No. 697832 dt. 4-5-92 forged marked as Ex. M1. Ex. M11 is the xerox copy of the register marked as Ex. M2 before the enquiry officer. Ex. M15 is the letter dt. 10-8-92 addressed by the branch manager to the regional office which is marked as Ex. M6 in the departmental enquiry. Ex. M16 is the xerox copy of muster roll

marked as Ex. M3 before the enquiry officer. Ex. M17 is the letter dt. 4-12-92 of the worker delinquent addressed to the enquiry officer which is marked as Ex. D1. Ex. M8 and M9 are the written arguments submitted by both the parties before the enquiry officer. Ex. M18 is the report of the enquiry officer dt. 12-2-93 finding the worker not guilty of all the charges. Ex. M19 is the letter addressed to the worker by the disciplinary authority on 13-2-93 calling for his remarks on the finding of the enquiry officer. Ex. M20 is the order of the disciplinary authority dt. 11-5-93 finding the worker guilty and calling for his explanation. Ex. M21 is the letter addressed by the delinquent on 21-5-93 to the disciplinary authority to set aside the finding. Ex. M22 is the show cause notice dt. 3-11-93 proposing punishment of dismissal. Ex. M23 is the explanation dt. 19-11-93 of the delinquent. Ex. M24 is the proceedings dt. 29-11-93 for personal hearing regarding proposed punishment. Ex. M25 is the letter dt. 6-1-94 addressed by disciplinary authority to the regional office confirming the order of dismissal. Ex. M26 is the appeal preferred by the delinquent. Ex. M27 is the proceedings sheet dt. 4-4-94 of the appeal and Ex. M28 is the letter dt. 20-5-94 sent to the delinquent communicating the order dt. 6-4-94 of Appellate Authority.

9. Thus admittedly the delinquent was found not guilty by the enquiry officer in his report Ex. M18. But disciplinary authority disagreed with his finding vide Ex. M20 letter, issued show cause notice Ex. M22 for which the delinquent gave Ex. M23 explanation. The disciplinary authority did not accept his explanation and plinary authority did not accept his explanation and passed order of dismissal which was upheld by the appellate authority. As stated above, the gist of 5 charges framed against the delinquent worker is that while working as sub-staff in Gaganmabal Branch of the respondent bank, he committed fraud and forgery by withdrawing a sum of Rs. 4,000 from the SB account of the customer Sri Girish C. Kapashi on 4-5-92 by forging the signature on a withdrawal slip which he has issued to him sent earlier on 29-4-1992 with the help of specimen signature card of the customer which he removed earlier and tampered.

10. The grievance of the petitioner is that though the customer who was said to have been defrauded has not given any complaint, though the enquiry officer found the petitioner worker not guilty in his report Ex. M18 as no evidence was adduced in respect of three of the charges and in respect of other two charges the accountant and passing officers stated that after satisfying as to identity of the account holder Ex. M10 cheque was passed and the cashier stated that he paid the cash to the account holder, the disciplinary authority did not accept the same but passed dismissal order which is contrary to the principles of natural justice. It is urged that disciplinary authority is not entitled to reject the report of the enquiry officer. The learned counsel for the respondent on the other hand contended that as per the circular dated 29-2-88 which is of confidential nature the disciplinary authority is not bound by the report of the enquiry officer's finding and he can

arrive at his own conclusion on consideration of the material available on record and also placed reliance of the decision in state of Rajasthan vs. Saxena 1998(1) LLJ page 1244.

11. On a careful consideration of the confidential instruction given to the disciplinary authority and the above decision of the Supreme Court there can be no doubt that the disciplinary authority can disagree with the finding of the enquiry officer for reasons to be recorded. Hence, it has to be seen whether the disciplinary authority recorded any reasons as according to the petitioner no reasons are recorded in Ex. M19 sent to the petitioner calling for the remark on the giving of the enquiry officer. He has submitted further that the disciplinary authority relied on Ex. M12 confession extracted from the petitioner worker on false promise and Ex. M13 letter undertaking extracted from the worker for deduction of Rs. 500 from his salary which are marked as Ex. M3 and M4 during the enquiry in the absence of evidence of witnesses examined on behalf of the management and Ex. M3 explanation given by the worker to the charge sheet, though they are disputed by the worker. It is submitted that Sri U.M. Sarma before whom the delinquent said to have confessed, has not deposed to the above effect. He thus contended the disciplinary authority erred in relying on these documents which are extorted from the worker on false promise not to initiate any prosecution.

12. On a consideration of the evidence on record, I am not able to accept the contention of the petitioner that disciplinary authority has not given valid and cogent reason for disagreeing with the proceedings of the enquiry officer. It is no doubt true that witness examined during the enquiry did not speak anything incriminating against the worker in respect of any of the charges levelled against him i.e. alleged misconduct. But the disciplinary authority relied on the documentary evidence in the shape of confession made by the delinquent though it is true the complaint alleged to have been given by customer was not brought on record.

13. Ex. M12 is the letter dated 7-8-92 purported to have been given by the workman confessing the offence in the presence of Sri Sharma and other staff members. It is marked on Ex. M3 before the enquiry officer. A perusal of the above documents would show it was addressed by the workman to the Branch Manager. It is specifically confessed in the above letter that the delinquent took loose cheque and also opening form and he forged the signature of the customer by showing the specimen signature card to another person, that he noted the token number on the reverse of the cheque, got it passed by the passing officer and encashed the cheque by presenting to the cashier. Thus, he made clean breast of the various charges levelled against him. The delinquent who appears to be English knowing Person signed in English, one Sri M.U.M. Sharma, Clerk wrote and attested the above statement. The said clerk was examined before the enquiry officer. He identified the signature of the delinquent in the above letter. He stated that Ex. M12 i.e. Ex. M3 before enquiry officer is in his hand writing and he identified the signature of himself and the delinquent.

He was not cross examined by the representative of the delinquent. It was not suggested to him that the said statement was not given by the worker or it was extracted under coercion or by making false promise. Ex. M13 is the letter dated 14-8-92 which is marked as Ex. M4 before the enquiry officer. It was purported to have been written by the delinquent. Under the said letter he asked the Bank Manager to adjust Rs. 1512 bonus payable to him and deduct Rs. 500 from his salary towards Rs. 4000 withdrawn by him from the account of customer. The delinquent signed in English and letter is in English. Thus, in the above letter also the delinquent admitted his guilt. Both these documents are prior to ordering departmental enquiry. This document was duly proved by the manager examined as MW4. He also proved Ex. M12 letter given by the delinquent admitting the charges. This witness also proved Ex. M3 explanation given by the delinquent to the charge sheet served on him wherein he stated that he has already confessed the guilt. This witness is also not seriously cross examined regarding the above document which are material documents. The delinquent also admitted before the commencement of enquiry his guilt as can be seen from Ex. M7 proceedings dated 3-12-93 of the enquiry officer. A perusal of Ex. M18 report of the enquiry officer dated 12-2-93 would show that he has not given much importance to these material documents in view of Ex. M17 explanation given by the delinquent after the closure of the enquiry denying the charges and stating that he signed in the confession statement as he was asked to do so without knowing its consequences. But no such suggestion made either to Sarma and Bank Manager. Thus, it is obvious, the delinquent came up with belated explanation to wriggle out from the situation. Ex. M20 finding of the disciplinary authority would show that he relied on the above documents in coming to independent conclusion that the delinquent is guilty of the charges. He gave sufficient reasons also for differing with the finding of the enquiry officer who considered the oral evidence of the management witness. I am of the view that the disciplinary authority has rightly placed reliance on Ex. M12, M13 and M9 proceedings of the enquiry officer. I find no reason to hold that the Ex. M12 and M13 are extracted from the workman under threat or coercion. Ex. M20 finding of the disciplinary authority would show that he gave cogent reasons for disagreeing with the finding of the enquiry officer. I find no reason to hold that the reasons given by the disciplinary authority are perverse. As stated above the appeal preferred by the delinquent after the order of dismissal passed i.e. Ex. M25 confirmed by the appellate authority. Ex. M22 shows that show cause notice issued while proposing punishment. Ex. M23 shows the delinquent asked for time for personal hearing. Ex. M24 is the reply filed by the representative of the delinquent to set aside the charges and alleging that persons belonging to opposite union though committed serious charges are reinstated and the disciplinary authority is not justified in rejecting the finding of the enquiry officer. Thus, sufficient time was given for giving explanation to the show cause notice. Thus, the principle

of natural justice was complied with in reversing the findings of the enquiry officer and in passing final order Ex. M25 dismissing the delinquent. I therefore, negative the contention of the petitioner that the disciplinary authority has not recorded reasons for not accepting the enquiry officer though it is based on the evidence placed on record. I hold that disciplinary authority has rightly held the workman guilty and in disagreeing with the finding of the enquiry officer.

14. It is next urged on behalf of the petitioner that punishment of dismissal is too severe and the passing officer, accounts officer and cashier also guilty of misconduct as they are not careful in discharge of their duties. But they are let off while the petitioner worker is punished with dismissal. He submitted that U/s. 11-A of the I.D. Act the Tribunal has got power to alter the punishment having regard to the circumstances of the case. He placed strong reliance on a decision in *Workmen of Fire Stone Type and Rubber Vs. Management* [1973(1) LLJ page 278]. The respondent on the other hand contended that it is not a fit case for invoking Sec. 11A of the I.D. Act as the delinquent is guilty of serious misconduct and as the management lost confidence in the delinquent who is not fit to continue in a financial institution. Reliance placed on a decision in *Mr. P. Maheshwar vs. Presiding Officer, Labour Court* [1998(1) ALD page 758].

15. On a consideration of the facts and circumstances of the case and principles of law laid down in the above authorities and as it appears to be a case of negligence on the part of the other officials of the bank and as the alleged fraud was detected nearly 4 or 5 months after the fraud on the strength of the letter said to have been given by the customer from where S. B. Account delinquent withdrew Rs. 4,000 by forging the signature in Ex. M10 cheque, I feel that ends of Justice can be met by awarding lesser punishment.

16. Hence in the circumstances, while holding that the workman Sri Viswambaram, Sub-staff is guilty of the charges framed against him in view of Ex. M12 and M13 letters given by him an award is passed in exercising the power vested in this Tribunal U/s. 11-A of the I.D. Act, the punishment of dismissal is reduced to reinstatement without back wages but continuity of service. The management is directed to post the workman Vishwambaram as part time sweeper in some other branch of the bank and outside Hyderabad and not give scope to him to indulge in case of this type. The petitioner workman is entitled to benefits if any by continuity of service.

Written by me and given under my hand and the seal of this Tribunal, this the 18th day of August, 1998.

C. V. RAGHAVARAH, Industrial Tribunal-I.

NIL

Documents marked for the petitioner :

NIL

Documents marked for the Respondent :

Ex. M-1 : Charge sheet dated 3-9-1992.

Ex. M-2 : Corrigendum dated 24-9-1992 to charge sheet.

Ex. M-3 : Explanation of Mr. L. Viswambaram dated 12-10-1992 (Confession letter).

Ex. M-4 : Letter of the Management dated 2-11-1992 intimating that Mr. A. V. L. N. Rao, appointed as an enquiry officer.

Ex. M-5 : Letter of the respondent dated 13-11-1992 addressed to Mr. A. V. L. N. Rao directing him to conduct the enquiry against Mr. L. Viswambharam.

Ex. M-6 : Letter of the respondent dated 13-11-1992 addressed to Mr. V. V. S. Jogeswara Rao directing him to act as a Presenting Officer on behalf of the bank.

Ex. M-7 : Proceedings of the domestic enquiry.

Ex. M-8 : Written arguments submitted by the Presenting Officer on 14-12-1992.

Ex. M-9 : Written arguments submitted by the defence representative on 19-1-1993.

Ex. M-10 : Ex. M-1 cheque No. 697832, dated 4-5-1992.

Ex. M-11 : Ex. M-2 xerox copy of the register.

Ex. M-12 : Ex. M-3 letter written by Mr. L. Viswambharam dated 7-8-1992 addressed to the Manager, Dena Bank, Gaganmahal Branch, Hyderabad.

Ex. M-13 : Ex. M-4 letter of Mr. L. Viswambharam dated 14-8-1992 addressed to the branch manager, Dena Bank, Gaganmahal Branch intimating that he would clear the amount.

Ex. M-14 : Ex. M-5 letter of Mr. L. Viswambharam dated 12-10-1992 giving an undertaking to deduct Rs. 500/- from salary every month towards loss caused to the Bank.

Ex. M-15 : Ex. M-6 letter of the Branch Manager dated 10-8-1992 addressed to the Regional Manager, Dena Bank, Regional Office, Bangalore.

Ex. M-16 : Ex. M-7 muster roll register (xerox copy).

Ex. M-17 : Ex. D-1 letter of Mr. L. Viswambharam dated 4-12-1992 to Mr. A.V.L.N. Rao enquiry Officer.

Ex. M-18 : Findings of the enquiry Officer dated 12-2-1993.

Ex. M-19 : Letter of the disciplinary authority dated 13-2-1993 addressed to Mr. L. Viswambharam calling upon the findings of the enquiry Officer.

Ex. M-20 : Letter of the respondent dated 11-5-1993 addressed to Mr. L. Viswambharam finding him guilty of the misconduct.

Ex. M-21 : Letter of the petitioner dated 21-5-1993 addressed to the Disciplinary Authority requesting him to set aside the charges.

Ex. M-22 : Memorandum of the respondent dated 3-11-1993 (show cause notice of dismissal).

Ex. M-23 : Reply to Ex. M-22 dated 19-11-93 of Mr. L. Viswambharam.

Ex. M-24 : Proceedings of personal hearings with regard to proposed punishment dated 29-11-1993.

Ex. M-25 : Letter of the disciplinary authority to the Regional Manager, Bangalore region dated 6-1-1994 confirming the order of dismissal.

Ex. M-26 : Appeal against the order of dismissal dated 9-2-1994 to the appellate authority-cum-Zonal Manager, Dena Bank, Bangalore by Mr. L. Viswambharam.

Ex. M-27 : Proceedings of the appeal dated 4-4-1994.

Ex. M-28 : Letter of the respondent dated 20-5-1994 enclosing the order of the appellate authority, Assistant General Manager, Dena Bank, dated 6-4-1994.

नई दिल्ली 11 नवम्बर, 1998

का. आ. 2492.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यनियन बैंक ऑफ इंडिया के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्राप्ति करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[स. एस-12012/298/96—आई.आर.(बी-11)]

सी-योगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2492.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 10-11-1998.

[No. L-12012/298-96-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT
PANDU NAGAR, KANPUR

Industrial Dispute No. 212/1997

In the matter of dispute :

BETWEEN

The Vice President,
Union Bank of India Staff Association,
Central Office,
3/192 Viram Khand Gomti Nagar,
Lucknow.

AND

The General Manager,
Union Bank of India,
Zonal Office,
Sharda Tower II Floor,
Kapoorthala,
Lucknow.

APPEARANCE :

Sri M. L. Agrawal for the Bank and P. K.
Triwari for the Association.

AWARD

1. Central Government, Ministry of Labour vide Notification No. L-120/2,298/96-IR(B-II) dated 22/26-9-97 has referred the following dispute for adjudication to this tribunal—

Whether the action of the management of Union Bank of India in awarding punishment vide order dated 16-9-95 subsequently revised by order dated 27-9-95 to Sri Jai Nath Saroj, Daftari, Rampur Branch Jaunpur is justified? If not what relief the workman is entitled to?

2. The concerned workman Jai Nath Saroj was working as Daftri in District Jaunpur of opposite party Union Bank of India. He was issued a charge-sheet dated 7-9-94 which runs as under—

1. One Sri Shivdarshan Dubey son of Narrotam Dubey r/o Vill. Mai Post Ramnagar District Jaunpur holder of SB A/c No. 9627 opened a SB A/c 10156 in the joint name of himself and his wife Smt. Brijma Devi on 14-5-88 with initial deposit of Rs. 1800 for 87 months. On the same day a DRC of Rs. 50000 for 87 months was issued in the name of Brijma Devi and Sri Shivdarshan bearing receipt No. 3475/3086578. The due date

of DRC is 18-8-95. On 8-3-88 the DRC holder raised a loan of Rs. 5000 against aforesaid DRC which was credited to SB A/c No. 10156. They deposited Rs. 3000 in this account on 3-5-90. On 19-6-90, the borrower adjusted the loan by depositing Rs. 2101.85 including interest. Sri Jainath being daftari had an access to the almirah wherein the used pads of DRC receipts are kept in the record room Sri Jainath fraudulently misutilised his position and presented outsiders impersonating them as account holder with Sri Matho accountant of the branch and got sanctioned a loan of Rs. 40000 through Sri Matho against aforesaid DRC on the basis of an application submitted by aforesaid two outsiders impersonating Sri Shivdarshan Dubey and Smt. Brijma Devi though Sri Shailendra Srivastava branch manager was present on that day. The signature of Sri Shivdarshan on loan application does not tally with the one on bank's record. The DP note for Rs. 40000 was filled in and not executed by Sri Matho against aforesaid DRC on the basis of the account opening form in the name of Sri Shivdarshan for SB account No. 12188 opened on that day. Sri Jainath arranged to withdraw Rs. 40000 by withdrawal form by impersonating another person. The said withdrawal was passed simply by Sri Mathu, Sri Jainath thus misutilised his position as daftari and in connivance with Sri Matho got allowed opening of new account No. 12188 by producing outsiders as true account holder and withdrew an amount of Rs. 40000.

2. On 22-2-89 Sri Balihari Tripathi holder of account No. 10917 approached the bank for issuing a DRC for Rs. 50000 in the joint names of Sri Balihari Tripathi and Smt. Durgawati Devi to the debit of account No. 10917. The SB A/c was debited and the credit voucher for DRC was prepared. However, the two DRC receipts were issued one bearing No. 3086998/3897 for 87 months and another bearing No. 3086999/3887 for 24 months for similar amount. The second receipt was presented for payment on 23-9-91 through Gomti Gramin Bank Ashapur and paid to the branch. Meanwhile on 4-4-90 Sri Jainath dishonestly with the help of outsiders raised a loan of Rs. 37500 against DRC No. 3086997 by impersonating them as account holder and got credited the same to the newly opened account No. 11937 on that day itself and also managed to withdraw the

amount the next day. Sri Jainath in connivance with Sri Mahto accountant of the branch got introduced the said account by Sri Ramesh Chandra Dixit having account No. 2285 but the signature in the introducer signature column of the account opening form does tally with the signature of Sri Ramesh Chandra Dixit on the specimen signature card of S/B Account No. 2265.

An officer of bank Rajesh Pandey was appointed enquiry officer. After completing enquiry he submitted his report on 1-9-1995. After issuing show cause notice disciplinary authority awarded punishment by way of reduction in pay by 5 stages which was subsequently reduced to two stages in appeal vide order dated 27-9-95. Feeling aggrieved the concerned workman has raised the instant industrial dispute. In the claim statement fairness and propriety of domestic enquiry was challenged. It was further alleged that he had not perpetrated the fraud as formulated in the two charges aforesaid. In the written statement it was alleged that enquiry was fairly and properly held. Further the concerned workman was having access to the instruments. He had perpetrated these two frauds.

4. In the rejoinder nothing new was alleged. On the pleadings of the parties preliminary regarding fairness and propriety of domestic enquiry was framed. Vide finding dated 13-4-98 this tribunal held that enquiry was not fairly and properly held. It may be mentioned that the management till the disposal of preliminary issue had not filed any papers regarding domestic enquiry. In its absence enquiry was held to be not fair and proper. After disposal of preliminary issue the management had filed all the papers connected with domestic enquiry and in that course statement of Nirai Rastogi the then branch manager has also been filed. Before this Tribunal management has examined Nirai Rastogi as M.W. 1 whereas workman has examined himself as W.W. 1 besides papers connected with fraud has also been filed.

5. M.W. 1 Nirai Rastogi with the help of previous evidence given before the enquiry officer has proved facts of both the charges. In doing so he had stated that it was the concerned workman who had procured papers from the almirah and fabricated the forged documents the details of which have been given in the two charges.

6. On the other hand concerned workman Jainath Saroi WW1 has stated that in 1987 a fraud had taken place in his branch however, he had no role in this fraud. He had no knowledge about it. He has further stated that FDR and security items are kept by the branch manager. In my opinion this evasive evidence is not proper rebuttal of the management evidence. The concerned workman ought to have specifically denied that he had not procured the instrument and that he had not pro-

duced any person impersonating as Shivdarshan Dubey and Smt. Brijma Devi. Similarly he ought to have denied that he had not done any thing in raising of loan of Rs. 37000, in any manner. Thus in the absence of specific denial by the concerned workman I am inclined to believe the version of the management witness and hold that the concerned workman was also responsible for fraud as detailed in the second charge. Thus the charges are proved.

7. As regards quantum of punishment as the punishment awarded to the concerned workman is less than dismissal discharge or removal from service, this tribunal cannot look into it.

8. In the end my award is that the action of the management in awarding punishment on the workman is just and legal. Consequently the workman is not entitled for any relief.

Dated : 15-10-1998.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1998

का. प्रा. 2493.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेक आफ बडोदा के प्रबन्धन के संबंध भिद्योजकों और उनके कर्म-कारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[नं. एल-12012/301/91-आई.आर.(बी-II)]

मी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2493.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman which was received by the Central Government on 10-11-98.

[No. L-12012/301/91-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 21/92

In the matter of dispute between :

Shri Harinder Narang, through
General Secretary.

Bank of Baroda Employees Association,
Ground Floor 16, Sansad Marg,
New Delhi-110001.

Versus

Regional Manager,
Bank of Baroda,
Regional Office,
16, Sansad Marg,
New Delhi-110001.

APPEARANCES :

Workman with representative.
Shri Gupta for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/301/91-IR (B-2) dated Nil has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Bank of Baroda in not granting two additional increments for acquiring additional qualification i.e. B.A. and M.A. by Shri Harinder Narang is justified ? If not, to what relief the workman is entitled to ?"

2. The workman in his statement of claim alleged that he was employed by the management as Accounts Clerk-cum-Typist in the year March, 1976 and is working at Jawahar Nagar, Delhi Branch at present. He had passed Uttma Sahitya of Sahitya Samelan Prayag, U.P. in the year 1978 which is recognised by the Central Government of India equivalent to degree in B.A. Hons. in Hindi. He also appeared and passed in Sahitya Rattan examination of Hindi Sahitya Samelan Prayag (U.P.) in the year 1980-81 and the said qualification is treated equivalent to graduation degree i.e. B.A. Hons. by Govt. of India.

3. After having passed the aforesaid examination he applied to the management for grant of two additional increments as applicable to graduates. The Management however, refused and neglected the grant of increments to him despite his qualifications. The workman joined M.A. Hindi degree course from Meerut University and after great devotion and attention and studies he successfully passed M.A. degree examination in the year 1983. He reasonably believed and hoped that on the basis of prevailing practice and rules the workman would be granted two increments by the management but to his utter surprise he was refused. After having successfully passed M.A. Hindi Degree he informed the management vide letter dated 9-8-83 and also submitted his mark sheet for information and action. He was not granted the increments and then he wrote an admission letter dated 21-3-84 but without any response.

4. The workman has claimed that he was entitled to grant of two increments which have not been allowed to him hence this reference.

5. The Management in its written statement alleged that the according to All India Bipartite Settlement para 23. Part II there was stipulation regarding grant of Educational Allowance to any member of clerical staff/cadre acquiring specific academic qualifications. The relevant para has been reproduced below in the written statement, which is as under :—

"23. SPECIAL ALLOWANCES.

PART-II EDUCATIONAL QUALIFICATIONS :

- | | |
|--|--------------------------|
| (A) Graduate and/or holders of National Diploma in Commerce. . . . | 2 increment in pay scale |
| (B) Part-I of CAIB/CAIIB Examinations. . . . | -do- |
| (C) Part-II of CAIB/CAIIB Examinations. . . . | -do- |

The aforesaid information continued to operate and binding on the workman and the management as a whole the claimant has to show that he has acquired any of those specific educational qualifications as stated in para 23. The workman in this case has not claimed to have passed National Diploma in Commerce nor Part II of CAIB or CAIIB examination nor even on the ground of having Bachelor Degree from any University in India credited to University Grants Commission or from any of the Institution which are recognised to 'deemed universities' by the U.G.C. and the Government. He has in this case passed a Hindi Course which by itself does not make him a Graduate as described in Part II of para 23 of the Bipartite Settlement. He as such was not entitled to the grant of two increments.

6. The Management examined Shri K.C. Hans MW1 while the workman himself appeared as WW1 in support of their case.

7. I have heard representatives for the parties and have gone through the record.

8. The representative for both the parties reiterated what has been stated in their pleadings. The main point for disallowing the two increments to the claimants was that the examination of Uttam Sahitya passed by the workman from Sahitya Sammelan, Prayag, U.P. and also the Sahitya Rattan Examination from the same Institution were not a Degree Examination. The fact that these qualifications have been recognised as equivalent to Hons. Graduate in Hindi which is attached with B.A. It by itself is not a degree but equivalent to a degree examination of one of the subjects of graduation. The relevant para of the Settlement requires him to have passed the Graduation course which consists of many other subjects in addition to Hindi. The workman has not passed any other subject and has passed only one of the subjects which is equivalent to the Bachelor Degree. From perusal

of Ex. MW1|1 to MW1|4 it was indispensable incident that the passing of the said examination cannot be treated as equivalent to having B.A. Degree. Even the Government of India and the said Sahitya Sammelan do not treat the passing of the said two examination as equivalent to full-fledged graduate degree. Both the Government of India and the said Sammelan treat this subject equivalent to the proficiency in Hindi of B.A. standard. B.A. Graduate is one thing and have proficiency in any particular subject of particular standard is another thing. One cannot be treated as having passed full-fledged B.A. Degree. The workman reliance on the Bank's Personal Manual was also not justified because Office Manual are not statutory but only internal guidelines grant for facilitating internal Administrative Decisions. In case of J. Rangaswami Vs. Government of Andhra Pradesh, 1990 Lab.I.C. 296|AIR 1990 SC 535 to which the Management has referred to and relied upon, the Hon'ble Supreme Court has held that prescription and assessment of the relevancy and suitability of particular qualification prescribed is the Management job and not of the Courts. Keeping in view these observations of the Hon'ble Supreme Court the office memos are only the reference books prepared for international use of officials and have no legal bindings.

9. In view of the above discussion I hold that the workman was not eligible or entitled to any additional increments by way of gratuity, allowance and as such is not entitled to any relief. Parties are, however, left to bear their own costs.

20th October, 1998

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1998

का.आ. 2494.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार सिंडिकेट बैंक, के प्रबंधन के संबंध में निम्नलिखित निर्णयों और उनके कर्मचारियों के बीच, अनुसूच में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण -II मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[सं. एल-12012/319/95-आर्.आर. (बी.-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2494.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 10-11-98.

[No. L-12012/319/95-IR (B-II)]

C. GANGADHARAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II
MUMBAI

PRESENT

SHRI S. B. PANSE

PRESIDING OFFICER

REFERENCE NO. CGIT-2/50 of 1996

EMPLOYERS IN RELATION TO THE
MANAGEMENT OF SYNDICATE BANK

AND

THEIR WORKMEN

APPEARANCES :

FOR THE EMPLOYER : Mr. D. B. Shetty
Representative.

FOR THE WORKMEN : Mr. Sunil P. Patil
Representative.

Mumbai, dated 7th October, 1998

AWARD-PART-II

On 10th November, 1997, by Part-I Award I came to the conclusion that the domestic inquiry which was held against the workman is against the Principles of Natural Justice and the findings of the inquiry officer are perverse. The opportunity was given to the management to lead evidence and justify its action.

2. In nut-shell the facts giving rise to present Industrial Dispute are that Gangaram Jadhav was working as an Assistant-Attendant at Syndicate Bank Branch, Khar. He was served with a chargesheet for committing an Act of gross misconduct. He was charged with committing Act of gross misconduct, of an act prejudicial to the interest of the bank vide Clause No. 19.5(j) of the Bipartite Settlement. It was alleged that he withdrew Rs. 3,000/- and Rs. 1,000/- from S. B. Account No. of one Ms. Shoba Suvarna forging her signatures on withdrawal slips. He also made entry of Rs. 3,000/- in ledger relating to the said account to cover up the fraud. He also made entries in the pass book of Shoba pertaining to that transaction.

3. In a domestic inquiry he was held guilty by the inquiry officer. The disciplinary authority accepted the report and ultimately, he came to be dismissed from the service on 17-7-91.

4. Now the issues that fall for my consideration and my findings thereon are as follows :

Issues	Findings
Whether the action of the management in dismissing Jadhav from service of the bank is justified ?	Yes

4. If not, to what relief Does not
is the workman entitled survive.
to?

REASONS

5. To justify the action the management examined Alwyn D'Souza (Ess. 32) the Manager and Ms. Lily Monterio, sub-Manager (Ex-33), and Mrs. Shoba Suvarna (Ex-35). They also relied upon the documents on the record. As against that the management did not lead any oral evidence. They rely upon the documents on the record.

6. Gangaram Jadhav was attender at Khar Branch. Shoba Suvarna was his neighbour at Khar. She had a S.B. Account No. 16006 in the branch where Jadhav was working. He used to help her in bank transactions. Shoba had no cheque facility. Wherever she wanted to withdraw the amount she had to take a withdrawal slip from the concerned staff. It is the practice that when a slip is given it is entered in the register. The token is to be given to the customer only when there is a withdrawal slip. The withdrawal slip is given to the customer after presentation of the pass book.

7. Mrs. Lily affirms that for staff members if they demand the withdrawal slip it is handed over to them without seeing the pass book. This action cannot be said to be against the rules when the slip is handed over to the staff.

8. Alwyn D'Souza (Ex-32) and Mrs. Lily (Ex-33) the Manager and Sub-Manager at Khar Branch at the relevant time corroborates each other on all material points. They affirmed that somewhere in September 1986 it was reported to them that there are discrepancies in the Savings Bank Account No. 16006 of Smt Shobha Suvarna. These discrepancies were found out while tallying with the bank balancing for the months between June 1986, September 1986. They further affirmed that in the account there was a credit entry of Rs. 3,000/- but had not authorisation by way of depositing of cash. On verification with Managers scroll with receiving cashiers scroll it was found that no cash was deposited in the said account on 28th August 1986 and that entry which was made in the ledger was false.

9. They also affirmed that when Suvarna visited the branch for withdrawal of the amount alongwith the pass book she was informed that there is no balance for the withdrawal which she claimed. Jadhav intervened and told her that he will see to the matter and she should come on the next date. But it appears that on the next date she did not turn up and Jadhav also did not attend the duties for a 15-10-1986 when a telegram was sent to him to join 15-10-1986 when a telegram was sent to him to join the same. So far as remaining absent and joining on 15-10-1986 is concerned it is not in dispute. It is tried to bring on the record that he had been to Pune for his medical aid. But the fact still remains that he was not on duty in that period.

10. D'Souza and Lily supports each other by showing that there was a withdrawal of Rs. 3,000/- on 11th June, 1986 and Rs. 1,000/- on 12th June,

1986 by the withdrawal slips which are at Exhibit-1 and 2. D'Souza affirms that the contents of the withdrawal slips are in the handwriting of Jadhav and he identifies the same. So far as this position is concerned there is no cross examination nor there is suggestion to him that it is not in his handwriting. What it is tried to bring on the record that the slips bears signature of Shobha. I will discuss that portion little later. It is also tried to suggest that as the slips were bearing signature of Shobha she had taken out that amount and the worker had no concern. I find no merit in it.

11. D'Souza and Lily affirms that Shobha told them that she was not in Bombay between May to July in 1986. She had been to her native place. Shoba (Ex-35) affirms to that effect also. She appears to be illiterate and is not in a position to stick to a particular circumstances. But that does not mean that she is deposing falsely. This is not a criminal trial. It is to be seen that on preponderance of probabilities whether the charges levelled on the workmen are proved or not.

12. D'Souza and Lily affirmed that Jadhav joined on 15-10-1986. Thereafter in their presence and other staff, Jadhav was shown the relevant documents and informed what had actually happened. Then he confessed that he had fraudulently withdrawn Rs. 3,000/- Exhibit-3 and Rs. 1,000/- (Ex-4) on 11-6-1986 and 12-6-1986 respectively by forging the signature of Suvarna and undertake to reimburse the money withdrawn by him at the earliest. So far as this confession is concerned there is no suggestion to D'Souza or Lily that they are deposing falsely. Further more there are no circumstances on the record that they no reason to depose falsely against Jadhav. I accept their testimony to be true.

13. The action of Jadhav viz. of depositing of Rs. 4,000/- on 27-10-1986 supports the testimony of these two witnesses that he confessed his guilt and undertook to deposit the amount which he withdrew fraudulently.

14. Shobha admits her signatures on Ex-2 and 3. These are the withdrawal slips. On its basis it is tried to argue that those signatures are not forged by Jadhav and he had not received any amount on its basis. I find that the admission given by Shobha is by way of mistake. The conduct of Jadhav viz. depositing the amount supports it. It is not that he deposited the amount under protest, with a view that the bank should not take any action against him.

15. Shobha affirms that in a domestic inquiry he had given evidence to support the workman. She had also given a letter to the inquiry officer which bears her signature. She explains the position stating that she was compelled to depose so to help the workman as his family members are dependent upon him and now she wants to tell the truth. There is no reason to disbelieve her. For the sake of argument even if it is said that as she is deposing differently at different time she should not be relied. The fact still remains that the testimony of D'Souza and Lily proves the guilt against the workman.

16. It is tried to argue on behalf of the workman that there was no written complaint by Suvarna. No doubt there was no written complaint. But there is no need to have such a complaint. The documentary evidence speaks that the workman had committed major misconducts. He had forged the documents and his action was prejudicial to the interest of the bank.

17. Sovarna affirms that she had given only once letter dated 18-4-1992. By that letter she had informed the bank that Jadhav is honest and he had not committed any wrong. But the factual position still remains that Jadhav committed a major misconduct because the documentary evidence speaks against him. Not only that his action of depositing the amount of Rs. 4,000/- in the bank also speaks against him. I do not find any merit in the contents of the letter. Shobha denied to have written any other letter which are produced on behalf of the worker.

18. The Learned Representative for the workman argued that no financial loss is caused to the bank. Definitely the bank had not put any financial loss because the workman deposited the amount which he fraudulently withdrew. But that does not mean that he had not committed any major misconduct. The reputation of the bank is definitely damaged by his action. There are no reasons why the sympathy should be shown to him. He is ex-serviceman and an injured person. But that does not mean that he can commit any deeds and which can be pardoned. As the charges which were levelled against him are proved I find that the action taken by the management is perfectly legal and justified. In the result I record my findings on the points accordingly and pass the following order :—

ORDER

The action of the management of Syndicate Bank, Mumbai in dismissing Shri Gangaram Jadhav, Aitendent from service w.e.f. 17-7-1991 is legal and justified.

S. B. PANSE, Presiding Officer.

नई दिल्ली, 11 नवम्बर, 1998

का.प्र. 2495.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधन के संबंध नियोक्तों और उनके कार्य-कारों के बीच, अन्तर्गत में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम 1947 के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[च. नं. 12012/381/95-आई.आर.(बी-11)]

श्री. गंगाधरन, डेस्क अधिकारी,

New Delhi, the 11th November, 1998

S.O. 2495.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the

employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 10-11-98.

[No. L-12012/381/95-IR(B-II)]

C. GANDHARAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 22 of 1997

In the matter of dispute between:

General Secretary,
Union Bank Employees Union,
628-M-33 Murari Nagar Faizabad Road,
Lucknow.

AND

General Manager,
Union Bank of India
Zonal Office
Kapoorthala Complex, Aliganj, Lucknow.

APPEARANCE:

S. D. Mishra—for the workman & R. R. Mohanti for the Bank.

AWARD

1. Central Government, vide notification no. L-12012/381/95-IR(B-2) dated 31-12-96, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Union Bank of India Lucknow to stop annual increments of Sri R. S. Chauhan peon Lucknow for utilising sanctioned housing loan to construct a house in Gonda District but at Unnao District is legal and justified? If not, to what relief he is entitled to?

2. The concerned workman R. S. Chauhan was working as peon at Kheta-Sarai Branch in District Jaunpur. There is no dispute that he was sanctioned a housing loan for Rs. 63720 on 11-11-86 for construction of house in his village Hariyagara in District Gonda. However later on it was found that the concerned workman had utilised this loan for construction of house in village Arjunpura Jaitpur in District Unnao. Treating it to be a case of misconduct the concerned workman was issued a chargesheet dated 1-8-1987. The concerned workman had submitted his reply alleging that due to family dispute he could not carry on work in Gonda. Instead he had constructed a house in District Unnao. He regretted that he did not inform about it and sought clemency. The opposite party without proceeding further after issuance of chargesheet awarded punishment by way of stoppage of 4 annual increment by order dated 26-11-87. Feeling aggrieved the concerned workman has raised the instant industrial dispute.

3. In the claim statement it was alleged that the concerned workman has not committed any misconduct inasmuch as he had utilised the money. In the reply it was alleged that as the concerned workman had misutilised the housing loan it would amount to breach of provision of house loan claim and which in turn would constitute a misconduct.

4. In the rejoinder nothing new has been alleged.

5. I have heard both sides and have gone through records, Para 19.5 of first bipartite settlement deal with instances of gross misconduct which are as under :—

19.5 By the expression gross misconduct shall be meant any of the following acts and omissions on the part of an employee—

- (a) engaging any trade or business outside the scope of his duties except with the written permission of the bank.
- (b) unauthorised disclosure of information regarding the affairs of the bank or any of its customers or any other person concerned with the business of the bank which is confidential or the disclosure of which is likely to be prejudicial to the interests of the bank.
- (c) drunkenness or fictitious or disorderly or indecent behaviour on the premises of the bank.
- (d) wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior.
- (e) wilful damages or attempt to cause damage to the property of the bank or any of its customers.
- (f) habitual doing of any act which amounts to minor misconduct as defined below, habitual using in a course of action taken or persisted in notwithstanding that atleast on three previous occasion compare or warning have been administered or an adverse remark has been entered againsts him.
- (g) wilful showing down in performance of work.
- (h) specification in stocks where securities or bank.
- (i) specification in stocks where securities or any commodity whether on his account of that of any other persons.
- (j) doing any act prejudicial to the interest of bank on gross negligence involving or likely to involve the bank in serious loss.
- (k) giving or taking a bribe or illegal gratification from a customer or are employee of the bank.
- (l) abetment of instigation of any of the acts or commissions above mentioned.

From a persual of chargesheet it will be obvious that it relates to misutilisation of fund by constructing the house at another place. Such act has not been defined as misconduct at all. Further the management has not filed the house loan scheme and further details of provisions of house loan scheme has also not been specified in the chargesheet. Thus it is not established that the concerned workman had committed any wrongful act which would tantamount to misconduct under bipartite settlement or in house loan scheme.

6. As a result of above discussion it is obvious that the concerned workman is not guilty of any misconduct and as such he has been wrongly punished.

7. There is another aspect of the case. The concerned workman would have been guilty of misconduct had it been established that he had not utilised the house loan amount for construction of house. For this further enquiry should have been held as to whether house was constructed in District Unnao at all. In the absence of such enquiry the punishment could not have been awarded.

8. As a result of above misconduct my award is that punishment awarded to the concerned workman by way of stoppage of four increments is bad in law. Consequently he will be entitled for full financial benefits on the premises as if no punishment was awarded to the concerned workman.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1998

का.प्र. 2496.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुनियन बैंक आफ इंडिया के प्रबंधन के संबंध में निम्नलिखित निर्णयों और उनके कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 10-11-98 को प्राप्त हुआ था।

[सं. एल-12012/422/95-आर्.प्र. (बी-II)]
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 11th November, 1998

S.O. 2496.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 10-11-1998.

[No. L-12012/422/95-IR(B-II)]
C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT,
PANDU NAGAR, KANPUR

Industrial Dispute No. 3 of 1997

In the matter of dispute :

BETWEEN

Vinod Kumar,
C/o Bhagwati Prasad,
Bombay Electronics,
Gao and post Bahiya Ka Bazar,
District Mirzapur.

AND

Zonal Manager,
Union Bank of India,
Kapoorthala Complex,
Sharda Tower,
Aliganj,
Lucknow.

APPEARANCE :

M. L. Agrawal for the Bank and V. P.
Srivastava for the workman.

AWARD

1. Central Government, Ministry of Labour,
vide notification No. L-12012/422/95-JR(B-2) has
referred the following dispute for adjudication.

Whether Sri Vinod Kumar has worked for
240 days or more at Dhantulsi Branch
of Union Bank of India in Varanasi
District during period 14-8-93 to
25-7-94 ? If so whether the action of the
management of Union Bank of India in
terminating his services w.e.f. 26-7-94
is justified ? If not to what relief work-
man is entitled ?

2. The case of the concerned workman Vinod
Kumar is that he was engaged as part time sweeper
on 14-8-93 at Dhantulsi branch in District Varanasi
of the opposite party Union Bank of India and
continuously worked upto 25-7-94, whereafter his
services were terminated in breach of provisions of
section 25F, G and H of I.D. Act.

3. The opposite party union Bank of India has
filed reply in which it has been alleged that the
concerned workman was never engaged, instead
there were some other persons available as well,
sweeping work was taken who was first available.
In any case the concerned workman has not com-
pleted 240 days in a year.

4. In the rejoinder nothing new has been alleged.

5. In support of his case, the concerned work-
man examined himself as W.W. 1 whereas bank has
examined Mahendra Kumar Rastogi. Workman has
filed documents Ext. W-1 to W-9 whereas manage-
ment bank has filed Ext. M-1 to M-5 in rebuttal.

6. At the outset it may be mentioned that there
is no proof regarding breach of provisions of section
25G of I.D. Act.

7. As regards breach of provisions of section
25H of I.D. Act in the claim statement the name
of person who was engaged subsequent to the con-
cerned workman was not disclosed. For the first
time it was mentioned in the evidence of the con-
cerned workman as Mangal Prasad. As it was not
pleaded earlier I am not inclined to accept this piece
of evidence. It would amount to departure from the
pleadings.

8. Now breach of provisions of sec. 25F of I.D.
Act may be considered. The concerned workman
has stated that he was engaged on 14-8-93 and
worked upto 25-7-94 continuously but receipts were
some times given in the name of Sukhraj and
Subedar. In his cross examination he has conceded
that his name was not sponsored by employment
exchange. His attendance was not recorded in
attendance register. He used to supply water. In
rebuttal M. K. Rastogi had stated that in all the
concerned workman had worked for 187 days. He
has further stated that whosoever sweeper was
available work was taken from him. The documents
Ext. W-1 to W-9 lates to proceedings before con-
ciliation officer, educational certificate. There is
one chart of working days. The bank has filed
vouchers through which payment was made to the
concerned workman. As the evidence of the bank
is based on the documents, I am inclined to believe
it and hold that concerned workman had worked
only for 187 days and in this way he had not com-
pleted in a year. Consequently provision of section
25F of I.D. Act are not attracted in his case.

9. Thus all the plea having failed, my award is
that the concerned workman had not completed
240 days in a year and that his termination is not
bad. Consequently he will not be entitled for any
relief.

Dated 15-10-1998.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 12 नवम्बर, 1998

का.प्र. 2497. औद्योगिक विवाद अधिनियम, 1947 (1947
का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनिन
बैंक आफ इंडिया के प्रबन्धन के संबंध नियोजकों और उनके
कर्मचारों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में श्रम
न्यायालय, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार
को 11-11-98 को प्राप्त हुआ था।

[सं० एल०-12012/438/95-आई.आर. (वी-II)]

सी. गंगाधरन, बैंक अधिकारी

New Delhi, the 12th November, 1998

S.O. 2497.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 11-11-98.

[No. L-12012/438/95-IR (B-II)]
C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
LABOUR COURT, CHENNAI.

PRESENT :

Thiru S. Sardar Zackria Hussain, B.Sc., B.L.
Presiding Officer.

Friday the 11th Day of September, 1998
Industrial Dispute No. 4 of 1997.

BETWEEN :

Thiru A. S. Xavier, Rep. by : The General
Secretary, Bank of India Staff Union,
1943, Trichy Road, Ramanathapuram,
Coimbatore 641045.

AND

The Management of Bank of India, by its
Zonal Manager, Southern Zone, No. 46,
Cathedral Road, Chennai 86.

AWARD

This is an industrial dispute referred to this court for adjudication by the Government of India, Ministry of Labour, by order No. L-12012/438/95/IR (B-II), Ministry of Labour, dated 4-3-97, the dispute between the workmen Thiru A. S. Xavier and the management of Bank of India, Chennai, on the following issue :

Whether the action of the management of Bank of India, Coimbatore, in terminating the services of Shri A. S. Xavier with 20 years of unblemished service in violation of the provisions of the I. D. Act 1947 is legal and justified ? If not to what relief the said workman is entitled ?

2. The parties did not file their pleadings.

3. To-day the dispute is taken up for enquiry. Petitioner and counsel for petitioner called absent. There is no representation. In the result, an award is passed dismissing the I. D. for default of ap-

pearance and non-prosecution by the petitioner. No costs.

Dated at Chennai, this the 11th day of September, 1998.

S. SARDAR ZACKRIA HUSSAIN, Presiding Officer

नई दिल्ली, 12 नवम्बर, 1998

स.स. 2498.—सामयिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अपने बैंक के प्रबन्धकों के संगठन नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-11-98 को प्राप्त हुआ था।

[सं. एल-12012/91/97-आई.आर. (बी-11)]
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 12th November, 1998

S.O. 2498.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Patna as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 11-11-98.

[No. L-12012/91/97-IR (B-II)]
C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference No. 16(c) of 1997

Management of UCO Bank, Maurya Lok Complex, Patna and their workman represented by the State Secretary, UCO Bank Employees Association C/o UCO Bank, Exhibition Road, Patna.

For the Management.—Sri C. M. Manektalla,
Dy. Chief Officer (Law) UCO Bank,
Patna.

For the Workman.—Sri B. Prasad, State Secretary, UCO Bank Employees's Association, Patna.

PRESENT :

Sri Raja Ram Singh, Presiding Officer, Industrial Tribunal, Patna.

AWARD

The 31st October, 1998

By adjudication order No. L-12012/91/97/IR (B-II) dated 10-11-1997 the Central Government (Govt. of India) in the Ministry of Labour, New Delhi, referred u/s. 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter to be referred as 'the Act') the following dispute between the Management of UCO Bank,

Maurya Lok Complex, Patna and their workman represented by the State Secretary, UCO Bank Employees Association, C/o UCO Bank, Exhibition Road, Patna for adjudication :

“Whether the action of the Management of UCO Bank is not regularising the workman Sh. Amar Nath Kumar as full time workman is legal and justified ? If not, to what relief the workman is entitled ?

(Hereinafter Amar Nath Kumar to be referred as ‘the workman’).

2. After receipt of the adjudication order the reference was registered and parties were directed to appear in this Tribunal. Both parties appeared and written statement of claim on behalf of the workman was filed. Copy of the written statement filed on behalf of the workman was served on the Management and the Management filed its rejoinder to the written statement filed by the workman. Thereafter, a rejoinder was filed on behalf of the workman to the comments made by the Management in the rejoinder filed on behalf of the Management. Documents were filed on behalf of the workman as well as by the Management. Thereafter, date was fixed for evidence and one witness was examined on behalf of the Management. On behalf of the workman one witness was examined and one document was adduced in the evidence which was marked Ext. 1 on admission of the Management. Thereafter, arguments were heard on behalf of both parties.

3. The case of the workman as mentioned in the written statement filed on his behalf may be narrated, in short, as follows :—

The workman Shri Amar Nath Kumar was appointed as a temporary peon against a permanent vacancy at Loyala High School Extension Counter under UCO Bank (hereinafter referred to as the Bank) Patliputra Industrial Area, Patna Branch on 2-5-1992. The workman continued on the post of temporary peon of the Bank w.e.f. 2-5-1992 and worked upto 30-3-1997 uninterruptedly at the said counter of the Bank.

The workman was performing the duties of a peon as indicated below :—

- (i) Taking out ledgers/registers from Almirah and keeping them back in the Almirah.
- (ii) Taking out token book scroll book from cash department to accounts dept. and vice-versa.
- (iii) Delivery of daks in post office and getting registration of registered letters issued by the Bank in the post office.
- (iv) Stitching of vouchers.
- (v) Serving water to the members of staff customers etc.

The workman worked from 7.30 A.M. to 3. P.M. i.e. full days work. The workman was paid wages through vouchers at the rate of Rs. 8 per day which was subsequently raised to Rs. 12 per day. The

workman worked for more than 240 days of continuous service in one calendar year.

The workman was not paid wages for Sundays and holidays although the workman was working in the Bank for all the days. The workman was not paid wages at par with other employees performing similar duties and was also not paid as per Bank's scale of pay of Class IV staff. There was need of regular permanent staff in subordinate category to man the work at the extension counter at Loyala High School as the counter could not run without a sub-staff. The workman requested the Management for regularisation of his service as permanent sub-ordinate staff in the Bank's scale of wages, but the Bank management failed to do so. After showing the cause of the regularisation of the peon was taken up by the UCO Bank Employees' Association (hereinafter referred to as ‘the Association’) with the Management of the Bank but the Bank management did not concede the same, rather, Bank Management decided to remove the workman from service. The Association apprehended the action of removal of the workman and therefore, it raised an industrial dispute for regularisation and apprehension of removal of the workman from his services before the Assistant Labour Commissioner (Central) Patna on 2-8-1995.

The Assistant Labour Commissioner (Central) Patna intervened into the matter and held conciliation proceedings on various dates but due to non-conciliatory attitude of the Management of the Bank the conciliation proceedings ended in failure and the failure report was sent by the A.L.C.(C) Patna to the Ministry of Labour Govt. of India.

The Govt. of India Ministry of Labour, New Delhi on receipt of the failure report formed subjective opinion regarding existence of an industrial dispute and referred the same for adjudication to this Tribunal as indicated above. After the submission of failure report by the Conciliation Officer the Management hatched a plan to remove the workman and during the pendency of the industrial dispute the Management of the Bank terminated the services of the workman on and from 31-3-1997. The Management of the Bank while terminating the services of the workman did not give notice, pay and retrenchment compensation although the workman was a workman u/s 25F of the Act as he had been put in more than 240 days continuous service in one calendar year within the meaning of an Industrial Disputes Act, 1947. So the action of the Management is not regularising the services of the workman w.e.f. 2-5-1992 and subsequently terminating the services of the workman from 31-3-1997 is not justified and had in law for the reasons mentioned in the statement of claim. It has been alleged on behalf of the workman that he was serving in the Bank at the said Extension counter from 2-5-1992 and was put in a long period of service. The Bank was exploiting the service of their workman and taking advantage of helplessness and misery of the workman which was against the concept of social justice.

The termination of the service during the pendency of an industrial dispute before the Government is a colourable exercise of power amounting to unfair labour practice. So the workman is entitled to regularisation/reinstatement of service as peon and pay

and allowance at par with regular staff similarly working in the Bank.

4. The claim of the workman has been resisted by the Management by filing the written statement on behalf of the Bank. It has been alleged on behalf of the Bank that the reference of dispute regarding non-regularisation of the workman u/s 10(1)(d) of the Act is bad in law. He was engaged by Officer incharge of UCO Bank, Loyala High School Extension counter on a casual basis for performing certain contingent nature of work, who had no authority to engage, so the engagement was void ab-initio. There was no sanction/provision for engagement of the casual worker from the competent authority. So he was not a workman under the provisions of section 2(s) of the Act. So his demand for regularisation of casual worker not validly engaged for contingent nature of work was not in industrial dispute u/s. 2(k) of the Act. He was never appointed as a Peon rather he was engaged for supplying drinking water i.e. jobs of contingent nature so he was not discharging the duties of a peon, his engagement for doing jobs of contingent nature was done orally in a very casual manner by an Officer who was not competent to do so. The workman was not maintaining a time schedule in attendance. He was paid on daily basis for the job done to the debit of miscellaneous account of the Bank. He was not engaged for doing a job on Sunday and holidays. The question of regularisation of workman does not arise against non-existent post. So the claim of the workman can not be allowed and the reference can not be answered in favour of the workman.

5. A rejoinder on behalf of the workman to the written statement of the Management was also filed in which it has been alleged, inter alia, that the workman was qualified as a workman within the meaning of section 2(s) of the Act. Any consideration regarding regular or irregular, legal or illegal appointment does not arise. Once the workman was appointed and was allowed to continue to work for fairly long period he was entitled to be absorbed/regularised as per law settled by the Apex Court of the Land. So the workman was a workman u/s 2(s) of the Act and his claim for regularisation is an industrial dispute.

6. The dispute was raised on behalf of the Association regarding the regularisation of the workman as a full time workman as a regular and permanent staff of the subordinate category. The conciliation ended in failure and the failure of the conciliation report was sent by the Conciliation Officer to the Ministry of Labour Govt. of India and while it was pending before the Govt. of India for making a reference the Management of the Bank terminated the services of the workman on 31-3-1997. So the reference was made by the Central Government only on the point of regularisation of the workman as a full time workman but the workman was terminated from his job during the pendency of industrial dispute, so the question of regularisation will become defunct if the point of termination will not be taken into consideration in this reference. Although the reference relates to only the question of regularisation of the workman but the

question of termination of the workman comes within the matter of incidental to the point referred by the Central Government. The decision of the termination was taken by the Management in consequence of raising the industrial dispute of the regularisation on behalf of the workman. So there appears substance in the contention advanced on behalf of the workman that it is colourable exercise of power in the garb of termination which amounts to unfair labour practice under the Act.

7. Now, the question arising whether the action of the Management in terminating the workman is covered by the matter of incidental thereto u/s 10(4) of the Act. The word 'incidental' according to Webster's New World dictionary : "Happening or likely to happen as a result of or in connection with something more important, being an incident; casual, hence, secondary or minor, but usually associated". So the matter incidental thereto denotes something incidental to the dispute which means something happening as a result of or in connection with dispute or associated with the dispute. Thus, the dispute is a fundamental thing while something incidental thereto is an adjunct to it. Something incidental, therefore, can not cut at the root of the main thing to which it is an adjunct. A point is incidental to another point when the one necessarily depends upon the other. Here the regularisation which is the main point depends upon the question of termination. If the termination will stand the question of regularisation can not arise. When the termination will be found to be illegal and unjustified then only question of regularisation will now arise. So the question of the termination will also be considered in this reference as an incidental matter to the point referred in this case. So the following points for determination arise in this case :—

- (i) Whether the workman was entitled to the regularisation as a full time sub-staff in grade IV of the Bank.
- (ii) Whether the termination of the workman during the pendency of an industrial dispute was legal and justified.

8. The learned representative on behalf of the Management submitted that the workman was appointed on casual basis for performing the certain contingent nature of work by a person who had no authority to engage. Thus, the workman was casual, so he was not a workman within the meaning of section 2(s) of the Act. There is no substance in the contention advanced by the learned representative of the Management. Now, it is settled principle of law as pronounced by the Patna High Court that even a casual labourer is a workman within the meaning of section 2(s) of the Act. For the question of regularisation 'illegal' or 'invalid' appointment can not be imported in a reference made under the Industrial Disputes Act. The idea of 'illegal' or 'invalid' appointment is quite foreign under scheme of the Industrial Disputes Act. Section 2(s) of the Act, which defines workman does not have any discretion and the definition is couched in the widest terms. The case of the workman is that he was

engaged on 2-5-1992 and worked upto 31-3-1997. This fact has not been denied by the Management in the written statement filed on behalf of the Management of Bank. So there is no dispute that the workman worked in the Bank from 2-5-1992 to 31-3-1997. A chart has been filed on behalf of the Management which has been marked Ext. 1. From this chart it appears that the workman worked for more than 240 days during twelve calendar months. He worked more than 240 days in the year 1993 and 1994. There is no denial on behalf of the Management that he did not work continuously within a period of 240 days within 12 calendar months preceding date on which he was terminated. So it appears that the workman worked many '240 days' within the period of his employment. So he will be deemed to be in continuous service for a period of one calendar year within the meaning of section 25(B) of the Act.

9. M.W.1 R. P. Sinha, Officer Incharge of Loyala High School Extension counter of UCO Bank has stated in his evidence that he is working as Officer Incharge since 15-1-1996. He has stated that Amar Nath Kumar was never appointed as peon at Loyala High School Extension counter but he has stated that he was working before his joining. He has stated that he was supplying drinking water to the staff for which he was paid. He has further stated that no instruction was given to him to stay after supplying drinking water to staff members but this fact is not mentioned in the pleading, so his evidence is at variance with the pleading of the Management. He has made attempt to change the case of the Management, but his evidence, which is at variance with the pleading, cannot be looked into this case. However, he has admitted in his cross-examination that Amar Nath Kumar used to carry dak from Extension counter to Patliputra Industrial Area. He has further alleged that Amar Nath Kumar used to go post office for posting mails ordinarily and registered. According to his evidence the workman was paid Rs. 12 per day for supplying drinking water, he was paid Rs. 7 as conveyance charge for going to the main Branch and he was paid Rs. 6 for going to post office. He has stated that he used to perform his function at his instruction. This witness did not know from which date he was giving his service to the Extension counter. So he was not present at the Extension counter when the workman began to work or he was engaged, but from his evidence it appears that he was engaged at the Extension counter before his joining. So there is no reason to disbelieve the case of the workman that he was working there from 2-5-1992. However, he has stated that the workman disengaged since April, 1997. However, from his evidence it appears that it is the duty of the subordinate staff to take mail from the Branch to the post office. So from his evidence it appears that the workman was performing the function of peon also. The evidence of this M.W. does not appear to be reliable, consistent and worthy of credence. It appears that this witness had tried to conceal the truth. His evidence is inconsistent with the pleadings of the Bank. More-

over this witness is not competent to say about the position before 15-1-1996.

10. On the other hand W.W.1 Amar Nath Kumar himself is a workman. He has supported his case as made out in his statement of claim. He has given the details of the work which he used to perform in the Bank. He has stated that after raising the dispute for regularisation through the union, he was retrenched on 31-3-1997. Before retrenchment neither notice or wages in lieu of notice was given to him and no retrenchment compensation was paid to him. However the M.W.1 has also admitted that neither notice was given nor wages in lieu of notice was paid to the workman before his termination. He has further stated that no retrenchment compensation was paid to the workman. The evidence of the M.W.1 appears to be reliable and believable. His evidence is consistent with the pleading.

11. Now, from the evidence adduced by the parties in the light of the pleadings of the parties it becomes evident that the workman was working in the said Extension counter of the Bank from 2-5-1992 on daily wages and he worked continuously till 31-3-1997 when the industrial dispute was raised on behalf of the workman for regularisation of his service on a permanent and regular basis as IVth grade sub-staff. From the evidence of M.W.1 appears that he was performing the function of a peon also. The only plea on behalf of the Management is that his appointment was not regular and legal but now it is settled principle of law even by the apex court of the land that the irregular appointment will not stand in the way of a regularisation of a casual worker for the job if he worked for a considerable period. Here the workman worked for a long period and the Bank took the work of a peon although he was treated as a casual workers on a daily wages. Under such circumstances the workman was entitled to his regularisation as a full time workman in the category of the subordinate sub-staff of the Bank. So the action of the Management in not regularising the workman Amar Nath Kumar as full time workman was neither legal nor justified.

12. The workman was terminated on 31-3-1997 after raising the industrial dispute on his behalf. The workman has worked more than 240 days within 12 calendar months before this termination. So the workman was in continuous service of one year preceding the date on which he was terminated. So his termination was had u/s 25F of the Act. The workman was employed in the Bank in continuous service for not less than one year but he was not given one month's notice in writing indicating the reason for retrenchment nor he was paid wages in lieu of notice. He was also not paid retrenchment compensation so the retrenchment of the workman was in contravention of section 25F of the Act. So the termination of the workman amounting to retrenchment u/s 25F of the Act is illegal and unjustified.

13. So it is held that the action of the Management in not regularising the service of the workman as a full time workman was not legal and justified. His termination on 31-3-1997 was also not legal and justified.

14. Now, the question arise as to what relief the workman is entitled to. The workman is entitled to regularisation as well as the reinstatement in the scale of the subordinate staff of the Bank. He will be regularised in the cadre of subordinate staff of the Bank from the date of the publication of this Award. He will be reinstated in service from the date on which date he was terminated with full back due till his reinstatement. He will be paid back wages at the rate which was last paid on the date of termination for all days inclusive Sunday and other holidays. He will be paid wages like regular and permanent employee of the cadre of the subordinate staff of the Bank from the date of regularisation of his service as indicated above.

15. This is my Award.

RAJA RAM, Presiding Officer

P.O., I. T., Patna,
31-10-1998.

नई दिल्ली, 12 नवम्बर, 1998

का.प्र. 2499.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अधुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अधुसन्ध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण क्षेत्रों के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-11-98 को प्राप्त हुआ था।

[सं. एल-12012/181/94-आई.प्रार. (बी-II)]
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 12th November, 1998

S.O. 2499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 11-11-98.

[No. L-12012/181/94-IR(B-II)]
C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU CHENNAI

Tuesday, the 28th day of July, 1998

PRESENT:—

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal.

Industrial Dispute No. 178 of 1994

(In the matter of the dispute for adjudication under Section 10(1)(d) of the I.D. Act, 1947 between the Workmen and the Management of Indian Bank, Madras).

BETWEEN

The workmen represented by
The General Secretary,
Indian Bank, Employees, Union,
26, 11 Line beach, Madras-1.

AND

The General Manager,
Indian Bank, Central Office,
Madras-1.

REFERENCE : Order No. L-12912/181/94-IR (D. II), Ministry of Labour, dated 14-9-94, Govt. of India, New Delhi.

This dispute coming on for final hearing on Tuesday, the 30th day of June, 1998, upon perusing the reference, claim and counter statements and all other material papers on record, upon hearing the arguments of Mr. S. Kow & Keady, S. Vaidyanathan and Indira, Advocates appearing for the petitioner-union and of Mr. Aiyar & Dona, R. Arumugam, and B. Haribabu, Advocates appearing for the respondent-management, and this dispute having stood over till this day for consideration, this Tribunal made the following

AWARD

This reference has been made for adjudication of the following issue :

Whether the action of the management of Indian Bank, Madras in imposing the punishment of stoppage of one increment with cumulative effect on Smt. R. Hemamalini, Clerk-cum-Shroff, w.e.f. 1-11-91 is justified? If not, what relief the said workman is entitled?

2. The main averments in the claim statement filed by the petitioner-union are as follows:— Smt. Hemamalini workman concerned in this dispute joined services of the respondent on 27-11-78 as Clerk-cum-Shroff. She has put in 17 years of unblemished record of service except for the alleged incident in question. A charge sheet dated 12-8-89 was issued by the respondent containing the following charges. Charge No. 1 : That on 16-3-89, at 3.30 p.m. workman informed Mr. Srinivasan, Assistant Manager when he approached her, that workman was not able to arrive at the correct difference in cash balance as the Scroll Officer has not given her the payment figures though the same could have been done by her with the paid instruments that were with her and could the paid instruments that were with her and workman refused the assistance of Mr. Srinivasan and informed him that cash will be handed over only at 5.00 p.m. and not before. Charge No. 2 : That as the workman came out of the cash cabin and closed the door, it got locked with the key inside as a result the door could not be opened. Therefore, a request was made

by her to the Assistant Manager for a duplicate key which he obliged. Charge No. 5 : When the matter was reported to the Chief Manager, who had summoned the petitioner for a discussion, the workman refused and went out of the office at 4.30 p.m. leaving the cash at the counter itself, duly locking the cabin and taking both the original and duplicate keys and returned to office only at 5.10 p.m. Around 6.00 p.m. the petitioner handed over the balance cash with a difference of excess cash of Rs. 88.68 and left the premises. Charge No. 5 & 6 : Petitioner uttered unparliamentary words against Mr. Srinivasan, Assistant Manager and Sri V. Pandian, Armed Guard. The above acts if proved, would amount to gross misconduct under clause 19.5(e) disobedience of lawful and reasonable orders of a superior and 19.5(c) disorderly and indecent behaviour of the premises of the bank-workman gave an explanation of not denying the charges and also sought clarification as to whether the alleged charge nos. is a charge at all and for reclassification of charge into the relevant and appropriate clause. The respondent by their letter dated 5-1-90, replied that the charges are cumulative. Mr. V. Arunachalam, Officer Zonal office, Madras was appointed as Enquiry Officer. Domestic enquiry was conducted between 3-1-90 and 9-1-90. 5 witnesses were examined by the respondent and marked 5 exhibits, on behalf of petitioner, the workman was examined and two documents were marked. Despite categorical admissions in the management evidence that will go to disprove the charges, the workman was found guilty by the Enquiry officer. The findings of the Enquiry officer are perverse. None of the officials have deposed that the workman told Assistant Manager that cash will be handed over only at 5.00 p.m. The finding of the Enquiry Officer that the petitioner failed to seek assistance of the Assistant Manager for giving cash balance has not been established. On the contrary it is admitted that the Scroll officer did not furnish payment figures because of which she could not give the cash immediately. Charge No. 2 could not be a charge for any misconduct. As regards charge Nos. 3 and 4, evidence of Thiru Srinivasan, Assistant Manager disproves the presence of Chief Manager at the time of alleged occurrence. As regards charge no. 5 Assistant Manager has not confirmed the words at the enquiry and Mr. Raghobhan, Chief Cashier whose presence is mentioned in the complaint was not examined as witness. As regards charge no. 6 witness Thiru Pandian has stated that the workman who had not used such words before. Based on the evidence of the Enquiry Officer, a second show notice dated 17-12-90 imposing a punishment of stoppage of two increments with cumulative effect was issued. Employee sent a reply on 20-1-91 and she was given a personal hearing on 8-3-91 itself. By order dt. 14-3-91 the respondent imposed stoppage of one increment with cumulative effect. The appeal preferred by the petitioner-union was returned on 13-5-91 stating that it should be filed only by the concerned employee. The punishment not given effect to when the normal increment fell due on 27-11-91 and 27-11-92. Therefore, the employee was under bonafide impression that the bank had closed the matter, but to her surprise an order dated 28-6-92 was issued pertaining to give effect and recover salary which she had already drawn

in excess. Thereafter, the concerned employee approached the petitioner-union who in turn made representation dt. 23-6-93 before the Assistant Labour Commissioner (Central). On 12-7-93 the respondent stated that they will restore increment already deducted and discuss the matter with union mutually. Another show cause notice dt. 17-8-93 was issued by the management as to why the increment wrongly released should not be withdrawn for which the workman replied on 10-9-93 referring to her appeal. The management replied on 20-9-93 stating that the employee should have reminded them about the punishment. A writ petition was filed by the workman before the Hon'ble High Court, Madras challenging the punishment orders dated 14-3-91 and 23-6-93. The writ petitioner was disposed of on 2-11-93 based on an endorsement made by the respondent's counsel that the employee could file an appeal within 3 weeks which would be considered on merits and until such time appeal was disposed of the order of the disciplinary authority will not be implemented. An appeal was submitted by the employee on 8-11-93. The order of disciplinary authority was merely confirmed by the management. Against this a dispute was raised by the petitioner-union on 14-12-93 before the Assistant Labour Commissioner (Central). The conciliation ended up in failure and the failure report was submitted on 23-6-94. The respondent management has failed to consider the unblemished past record of the employee. The punishment is grossly disproportionate to the gravity of the charges. The petitioner prays to pass an award holding that the punishment of stoppage of one increment with cumulative effect on the employee Smt. Hemamalini w.e.f. 1-11-91 is illegal and direct the respondent management to reimburse the amount with interest at 18% p.a. with costs.

3. The main averments found in the counter statement filed by the respondent are as follows:— Mrs. Hemamalini was working in the second payment counter at the branch on 16-3-89. At about 3.30 p.m., the key holding shroff had finished his work and was waiting for the cash to be handed over by the workman. The workman informed the Assistant Manager Sri Srinivasan when a request was made by him for handing over the cash that Scroll officer had not given her the payment figures and hence he was not able to arrive at the correct figures though she could have arrived at the figure with the paid instruments available with her. Workman came out of the cash cabin and left the branch premises around 4.30 p.m. without handing over the cash and without informing her higher authorities. When she left the branch at around 4.30 p.m. with the cash still lying in the cabin, the Armed Guard Sri Pandian was asked to guard the entrance of the cash counters as a great security risk was involved. She returned to branch at around 5.10 p.m. the door of the counter was banged by her with her leg and the Armed guard was asked to open the door, in a loud voice. When she was asked by the Armed guard why she kicked open the door, he was abused by her. Then around 6.00 p.m. cash was handed over by her to the payment cashier and left the premises without mentioning about anything including differences that was found. She was involved in an act of disobe-

disobedience and disorderly behaviour in the bank premises on 16-3-89 for which she was asked to submit her written explanation. As the explanation was not satisfactory, the respondent in order to her full and fair opportunity ordered for a departmental enquiry for the acts as alleged. In the enquiry the workman participated with her defence representative and cross examined the management witnesses. The Enquiry officer on the basis of oral and documentary evidence produced in the enquiry concluded that the charges revealed against her are proved and she is guilty of all charges. Second, show cause notice on the proposed punishment issued by the Disciplinary Authority. Explanation was submitted by the workman to the second show cause notice and further personal hearing was also granted to workman. By an order dt. 14-3-91 disciplinary authority imposed the punishment of stoppage of one increment with cumulative effect. A request was made by workman to the Appellate Authority to grant time to file her appeal against the order awarding punishment. This request was duly considered by the Appellate Authority and 15 days time was given to file appeal. On 11-5-91 an appeal was filed by the Union instead of by the employee. Therefore, the appeal was returned by the Appellate Authority advising the union that the appeal should be submitted by the employee and not the union. But the appeal was not filed by the workman and hence the punishment order was confirmed. The increment of the applicant in the normal course fell due on 27-11-91 when the punishment should have been given effect to. Due to inadvertent mistake on the part of the branch, the punishment was not given effect to on this date and also on the next increment anniversary on 27-11-92. The bonafide lapse on the part of the branch was then noticed, and in accordance to the order already passed the effect was given to later on. Writ petition No. 19429/93 was filed by the employee before the Hon'ble High Court, Madras challenging the order of punishment. The writ petition No. 19429/93 was disposed off by an order dt. 2-11-93 that the employee shall be given an opportunity before the Appellate Authority which shall be considered and disposed off on merits. As per the order of the Hon'ble High Court, the employee was given an opportunity to file an appeal before the Appellate Authority. An appeal was filed by the employee which was duly considered on merits and disposed off with the Appellate Authority confirming the punishment passed by the Disciplinary Authority. The employee was given in every stage full and fair opportunity till the end to defend herself. A lenient view was taken by Disciplinary Authority and a lesser punishment was imposed though the proved charges are very serious. No interference is called for. The workman already challenged the order of punishment before the Hon'ble High Court and the Hon'ble High Court refused to set aside the punishment and has only asked the bank to give an opportunity to her to file an appeal. The appeal was considered and orders were passed confirming the punishment. There is no merit in the present dispute. The employee was involved in an act of disobedience and disorderly behaviour within the bank's premises on 16-3-89 has been proved. The Chief Cashier did not make any request to leave branch early and excess of Rs. 88.58 was not returned by the employee at that point of time. It is

incorrect to state that her husband came and went out for about 10 minutes and returned to the counter at 4.40 p.m. The employee came out of the cash cabin and left the premises at 4.30 p.m. Without handing over the cash and informing the branch authorities. She returned to the branch only around 5.10 p.m. As she left the cabin without informing the respondent, the respondent asked Armed Guard to guard the cabin. It is incorrect to state that the findings of the Enquiry Officer is perverse. The employee and her defence representative were given full and fair opportunity to defend herself. Hence question of one sidedness/arbitrariness does not arise at all. The principles of natural justice was followed throughout. The employee was given an opportunity to put forth her stand as regards the punishment proposed and then a personal hearing was given to her. All the materials were considered and a lenient view was taken and the punishment was also reduced as one increment cut instead of two increments cut. It is only a bonafide lapse on the part of the branch for not having cut increment at the relevant time but when it was noticed, respondent took action. It is incorrect to state that the bank agreed to restore the increment already deducted. The Appellate Authority considered all the aspects and passed the order dt. 7-12-93. The averments that the punishment is unjust is not correct. It is incorrect to state that the respondent failed to consider unblemished past record of the employee. In fact the respondent considered past records and reduced punishment. There is no vindictiveness towards the employee as alleged. The respondent prays to dismiss the dispute with costs.

5. No witness was examined on behalf of both sides. Ex. W-1 to W-17 were marked on behalf of the petitioner. Ex. M-1 to M-14 were marked on behalf of the respondent.

6. The point for consideration is : Whether the action of the management of Indian Bank, Madras in imposing the punishment of stoppage of one increment with cumulative effect on Smt. R. Hemamalini, Clerk-cum-Shroff w.e.f. 1-11-91 is justified? If not what relief the said workman is entitled to?

7. The Point :—Mrs. R. Hemamalini an employee concerned in this dispute joined the services of the respondent bank on 27-11-78 as Clerk-cum-Shroff. On 22-3-89, she was served with Ex. W-1 memo for certain alleged misconducts said to have happened on 16-3-89 and her explanation was called for. She submitted Ex. W-2 explanation dated 31-3-89. Not satisfied with her explanation respondent formed W-3 charges on 12-8-89. The charges are as follows :

1. That on 16-3-89 at 3.30 p.m. she informed Mr. Srinivasan, Assistant Manager when he approached her, that she was not able to arrive at the correct difference in cash balance as the Scroll officer has not given her the payment figures, though she could have done the same with the paid instruments that were with her and could have found out the difference, if any. Further, she refused the assistance of Mr. Srinivasan, and informed him that she will handover the cash only at 5.00 p.m. and not before.

2. That as she came out of the cash cabin and closed the door, it got locked with the key inside as a result that door could not be opened. Therefore, she made a request to the Assistant Manager for a duplicate key which he obliged.
3. Then when the matter was reported to the Chief Manager and he in turn summoned the petitioner for a discussion, she refused and went out of the office at 4.30 p.m. leaving the cash at the counter itself, duly locking the cabin and taking both the original and duplicate keys and returned to office only at 5.10 p.m.
4. That around 6.00 p.m. the petitioner handed over the balance cash with a difference of excess cash of Rs. 88.68 and left the premises.
5. & 6. That she uttered unparliamentary words against Mr. Srinivasan, Assistant Manager and Sri V. Pandian, Armed Guard.

After receiving Ex. W-3 charge sheet she wanted certain clarification regarding the charges as per letter Ex. W-4. In the enquiry four witnesses were examined on behalf of the management and five documents were marked on behalf of the management. The concerned employee Smt. R. Hemamalini, has examined herself as defence witness and the documents were marked on behalf of the defence. Enquiry proceedings with exhibits are Ex. M-1. The written arguments of the petitioner and written arguments of the respondent in the said enquiry proceedings is Ex. W-6 and W-7. Enquiry Officer in his findings Ex. M-2 held that the charge sheeted employee is guilty of the charges framed against her. Accepting the findings of the Enquiry Officer the respondent management issued a second show cause notice Ex. W-8 dt. 17-12-90 proposing a punishment of stoppage of 2 increments with cumulative effect. On behalf of the employee petitioner union submitted reply dated 20-1-91, which is Ex. W-9. The employee was also granted a personal hearing as per Ex. M-3 letter dated 27-2-91 of the respondent management. Proceedings of the personal hearing dated 8-3-91 as Ex. M-4. The respondent management passed the final order Ex. M-5 and W-13 dated 14-3-91 and inflicted the punishment of stoppage of one increment with cumulative effect. On 27-4-91 the employee sent a letter to grant 15 days time to submit the appeal as per Ex. M-6. The management granted 15 days time for preferring appeal by the employee as per their letter Ex. M-7. On 11-5-91, the petitioner union submitted an appeal on behalf of the concerned employee and the same is Ex. M-8. Since appeal was not signed by the concerned employee but signed by the defence representative, the same was not considered by the respondent as per their letter dt. 13-5-91 which is marked as Ex. M-9. Thereafter an employee filed a Writ petition No. 19429/93 in the Hon'ble High Court, Madras praying for issue of Writ of certiorari to quash the order of the respondent and also an application WMP No. 40263/93 praying for stay of operation of the said order pending disposal of the Writ petition. The affidavit filed by the employee before the Hon'ble High Court is Ex. M-11. Hon'ble High Court passed the following order :

"Both parties agree that the petitioner will file the appeal within three weeks, which will be

considered on merits. Till such time the appeal is disposed of, the order of the disciplinary authority will not be implemented."

The order of the Hon'ble High Court dt. 12-11-93 in the said Writ petition is Ex. M-10. On 8-11-93 concerned employee submitted her appeal Ex. M-12. Order of the Appellate Authority rejecting the appeal is Ex. M-13. Since the punishment was not given effect to immediately as per the final order, probably by mistake, by the concerned branch by letter dt. 23-6-93 marked as Ex. W-14, respondent management demanded the concerned employee to pay Rs. 4,478.06 being the excess salary drawn for the period from November 1991, to May 1993. By letter dated 17-8-93 marked as Ex. W-15 respondent informed the concerned employee to show cause why the increment wrongly released should not be withdrawn and the punishment effected by recovering excess salary drawn. The reply of the concerned employee is Ex. W-16. Further letter calling for the explanation from the concerned employee that she was knowingly suppressed the fact is Ex. W-17. On 14-12-93, the petitioner union raised the dispute with Regional Labour Commissioner (Central) and the said letter is Ex. W-10. Conciliation failure report dated 23-6-84 is Ex. W-17.

8. The petitioner union has not disputed the enquiry proceedings in the sense that enquiry has been conducted in a fair and proper manner observing principles of natural justice. Charge sheeted employee has engaged defence counsel, Secretary of the Union to represent on her behalf and to defend her. After the examination of concerned employee as a defence witness, Enquiry officer has asked whether the enquiry has been conducted impartially and whether employee had been given adequate opportunity to defend her case and for both questions employee has answered in affirmative. The contention of the petitioner now is that the findings of the Enquiry Officer are perverse and that the punishment imposed on the employee is grossly disproportionate to the charges framed against her. A perusal of the enquiry proceedings would show that to prove the charges against the delinquent employee, four witnesses have been examined on behalf of the management and five documents have also been marked. Thiru C.S.G. Raghavan, Chief Manager of the concerned branch who was examined as MW1 has narrated the happenings on 16-3-89 pertaining to the charge sheet and also the discourteous behaviour of the concerned employee towards the other staff members of the same branch and he has further deposed that apart from the reports of the other staff members he himself was aware of the behaviour of the concerned employee. Thiru Srinivasan, Assistant Manager of the concerned branch has deposed about the entire incident which took place on 16-3-1989 to the effect that the charge sheeted employee refused to accept the assistance offered by him to adjust the cash balance and left the office without obtaining permission of the higher officials and also uttered unparliamentary and abusive words in the office premises, took away the duplicate keys of the cash counter and thus delayed and prevented cash adjustment, kept the cash on the table of the cash cabin without taking sufficient precautions, cash balance and the cash book were handed over to the Chief Cashier.

with some difference and the cash was adjusted later by the Cashier with his help and has partly corroborated the evidence of MW1, Chief Manager. Thiru M. V. Gopalan, MW3 has deposed about the demand of the concerned employee for separate payment figures for the payment made by her and about his reply that it is not possible to give separate payment figures for that counter and around 6.00 p.m. the main cashier came and told the payment figure which was adjusted later and during cross-examination he has stated that cash was adjusted at about 6.00 p.m. and put into safe. MW4, the armed guard, Th. Pandian, has deposed about the banging of the door, with her leg by the delinquent employee and asking him to open the door and also about her utterances of unparliamentary and abusive words. During cross-examination he has stated that the concerned employee used these words in general and not against any particular person. The evidence adduced on behalf of the management conclusively proves the occurrence that took place on 16-3-89. All the four management witnesses have corroborated each other regarding the occurrence and the behaviour of the delinquent employee on that day. The words used by the concerned employee are abusive, and obscene even though they may not have been uttered against a particular person but in general. The behaviour expected of a person of the status of Cashier-cum-Shroff should not be like the one as was found in the case of the delinquent employee. The Enquiry Officer has analysed the evidence in detail and has come to a proper conclusion that the charges are proved. There is no material to show that the findings are perverse.

9. The next contention of the petitioner union is that the punishment is grossly disproportionate when compared with the misconduct alleged against the concerned employee. Even though a punishment of cut of two increments with cumulative effect was proposed in second show cause notice, in the final order, same has been reduced to cut of one increment for one year with cumulative effect. Against the punishment instead of the concerned employee, petitioner union preferred an appeal which was rejected on the ground that the concerned employee has not appealed. Thereafter the concerned employee has filed W. P. No. 19429/93 wherein the Hon'ble High Court has been pleased to give a direction on the agreement of both parties that the concerned employee herself shall file an appeal within 3 weeks which would be considered on merits and till then order of Disciplinary Authority should not be implemented. Accordingly concerned employee has preferred an appeal which was also rejected by a detailed order. Six charges have been framed against this concerned employee and the Enquiry officer has held that all the charges have been proved. I have already held that the behaviour of the concerned employee is not the one expected from that of an educated person, that too a women employee as a Cashier-cum-Shroff in a nationalised bank. The punishment itself has been lenient and subsequently she has also been given promotion. Only in cases of termination of service dismissal the Tribunal can interfere under Sec. 11A of the ID. Act. I do not find any reason to interfere with the punishment already imposed.

In the result, award passed dismissing the claim of the petitioner. No costs.

Dated, this the 28th day of July 1998.

S. ASHOK KUMAR, Industrial Tribunal
WITNESSES EXAMINED

For both sides : None.

DOCUMENTS MARKED

For Petitioner/workman :

- Ex. W-1/22-3-89 : Show cause memo (xerox)
- Ex. W-2/31-3-89 : Petitioner's explanation (xerox)
- Ex. W-3/12-8-89 : Charge sheet (xerox copy)
- Ex. W-4/12-8-89 : Petitioner's explanation (xerox copy)
- Ex. W-5/12-8-89 : Enquiry proceedings (xerox copy)
- Ex. W-6/12-8-89 : Written arguments of petitioner (xerox copy)
- Ex. W-7/12-8-89 : Written arguments by the respondent (xerox copy).
- Ex. W-8/17-2-90 : Second show cause notice (xerox copy)
- Ex. W-9/20-1-91 : Petitioner reply (xerox copy)
- Ex. W-10/14-12-93 : Petitioner raising a dispute (xerox copy)
- Ex. W-11/23-6-94 : Conciliation failure report (xerox copy)
- Ex. W-12/2-11-93 : Order in W.P. 19429/93 (xerox copy)
- Ex. W-13/14-3-91 : Punishment order (xerox copy)
- Ex. W-14/23-6-93 : Order pertaining to give effect to punishment (xerox copy)
- Ex. W-15/17-8-93 : Show cause notice (xerox copy)
- Ex. W-16/10-9-93 : Petitioner's reply (xerox copy)
- Ex. W-17/20-9-93 : Respondent's letter stating that petitioner should have reminded the bank about punishment (xerox copy)

For Management side :

- Ex. M-1/18-1-90 : Enquiry proceedings with exhibits marked (xerox copy)
- Ex. M-2/17-11-90 : Enquiry findings (xerox copy)
- Ex. M-3/27-2-91 : Personal hearing letter (xerox copy)
- Ex. M-4/8-3-91 : Proceedings of personal hearing (xerox copy)
- Ex. M-5/14-3-91 : Final order (xerox copy)
- Ex. M-6/27-4-91 : Letter from the petitioner (xerox copy)
- Ex. M-7/30-4-91 : Reply of petitioner (xerox copy)
- Ex. M-8/11-5-91 : Appeal about punishment (xerox copy)
- Ex. M-9/13-5-91 : Bank letter (xerox copy)
- Ex. M-10/Oct-93 : Written petition (xerox copy)
- Ex. M-11/Oct-93 : Affidavit (xerox copy)
- Ex. M-12/8-11-93 : Appeal (xerox copy)
- Ex. M-13/7-12-93 : Order in appeal (xerox copy)
- Ex. M-14/25-2-94 : Reply (xerox copy)